GOVERNMENT OF INDIA,
LEGISLATIVE DEPARTMENT

THE

NORTH-WESTERN PROVINCES CODE:

CONSISTING OF THE

REGULATIONS AND LOCAL ACTS

IN FORCE IN THE NORTH-WESTERN PROVINCES OF THE PRESIDENCY OF FORT WILLIAM,

WITH A CHRONOLOGICAL TABLE OF THE BENGAL REGULATIONS.

CALCUTTA:
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PREFACE.

THIS, the North-Western Provinces Code, is published under the authority of the Government of India, and contains, first, the unrepealed Bengal Regulations in force in the North-Western Provinces of the Presidency of Fort William; secondly, the unrepealed local Acts of the Governor General in Council in force in those Provinces; thirdly, the Regulation for the Tarái District made under 33 Vic., c. 3: fourthly, lists of the enactments declared in force in, or extended to, that District and the Districts of Kumáon and Garhwál; and, lastly, the Rules for the administration of justice in Kumáon and Garhwál made under the Scheduled Districts Act, 1874, section 6.

The bulk of the present volume is founded on Clarke's edition of the Bengal Regulations published in 1854, under the authority of the Court of Directors of the East India Company, and on the official copies of the Acts of the Supreme Council and of the Regulations made under 33 Vic., c. 3, preserved in the Legislative Department.

The only changes made in reprinting are the following:—

(*a.*) Repealed portions of Regulations and Acts have been omitted, except in some cases where the repeal is not specific. In such cases the repeal is mentioned in a foot-note.

(*b.*) Where an Act directs that a section, a clause or words be inserted in a former Regulation or Act, in reprinting the former Regulation or Act, the insertion has been made.

(*c.*) Where one Regulation or Act refers to another, and such reference is directed by a subsequent Act to be read as if made to

the latter Act, the number, year and title of the latter Act have, as a rule, been substituted in the text.

(*d.*) Arabic numerals have been substituted for the Roman numerals used in the Regulations and the earlier Acts to denote the section-numbers.

(*e.*) Words belonging to oriental languages have been uniformly spelt.

(*f.*) Lengthy sections have sometimes been divided into clauses and paragraphs.

(*g.*) In some instances marginal notes have been added; in others, they have been shortened or corrected.

The Registrar, Legislative Department, is responsible for the correct printing of unaltered matter.

A. PHILLIPS,
Secy. to the Govt. of India,
Legislative Department.

SIMLA,
The 29th June 1877.

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CHRONOLOGICAL TABLE OF BENGAL REGULATIONS.

[*** With respect to entries in the fourth column the practice has been as follows :—

(*a*).—Where a Regulation has been partially repealed and afterwards wholly repealed, the total repeal only is entered. A repeal of the unrepealed portions of a Regulation is treated as a total repeal.

(*b*).—Partial repeals covered by later partial repeals are omitted.

(*c*).—Where a Regulation has been locally repealed and afterwards repealed by an Act whose operation is unrestricted, the later repealing Act has alone been entered.

(*d*).—Local repeals covered by later local repeals are omitted.]

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1793	I	Revenue Settlement declared permanent.	Rep. in part, IV of 1846.
	II	Collectors and Board of Revenue	Rep. in part, XXV of 1854; VIII of 1868; XXVI of 1871; XII of 1873; XVI of 1874; XII of 1876; Reg. V of 1804; Reg. XV of 1813; Reg. III of 1822.
	III	Zila Courts ...	Rep., VI of 1871.
	IV	Civil Procedure ...	Rep., XVI of 1874.
	V	Appeals ..	Rep., X of 1861.
	VI	Sadr Díwání Adálat ...	Rep., XXIX of 1871.
	VII	Vakíls ...	Rep., Reg. XXVII of 1814.
	VIII	Decennial Settlement ...	Rep. in part, X of 1859; XVI of 1874; XII of 1876; Reg. VII of 1796; Reg. XVII of 1805; Reg. V of 1812; Reg. XII of 1817; Rep. locally, Reg. IV of 1794, s. 4.
	IX	Criminal Procedure ...	Rep., XII of 1873.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1793	X	Court of Wards ...	Rep., XVI of 1874.
	XI	Inheritance ...	Rep. in part, XVI of 1874.
	XII	Native law-officers ...	Rep., XI of 1864.
	XIII	Ministerial officers of Courts .	Rep., XXIX of 1871.
	XIV	Recovery of revenue-arrears ...	Rep., XVI of 1874.
	XV	Interest ...	Rep., VIII of 1868.
	XVI	Arbitration ...	Rep., X of 1861.
	XVII	Distress for rent ...	Rep., X of 1859.
	XVIII	Records of Courts ...	Rep., XII of 1873.
	XIX	Non-bádsháhí Lákhiráj grants...	Rep. in part, X of 1859, s. 28; VIII of 1868; XVI of 1874; XII of 1876; Reg. VIII of 1800, ss. 11, 12, and 15; Reg. II of 1819; locally, Reg. V of 1813.
	XX	Power to propose Regulations ...	Rep., XXIX of 1871.
	XXI	Revenue Records ...	Rep., XII of 1873.
	XXII	Police ...	Rep., XXIX of 1871.
	XXIII	Expense of Police ..	Rep., Reg. VI of 1797.
	XXIV	Pensions charged on Revenue ...	Rep., XXIII of 1871.
	XXV	Division of revenue-paying estates	Rep., Reg. XIX of 1814.
	XXVI	Minority of Native landholders	Rep., XXIX of 1871.
	XXVII	Sayer ...	Rep., XXIX of 1871.
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	XXIX	Salt Agents ...	Rep., Reg. X of 1819.
	XXX	Illicit manufacture of salt .	Rep., Reg. VI of 1801.
	XXXI	Commercial Residents ...	Rep., VIII of 1868.
	XXXII	Opium ...	Rep., XIII of 1857.
	XXXIII	Embankments and Tanks, &c. ...	Rep., XXVI of 1871.
	XXXIV	Ábkárí ..	Rep., Reg. X of 1813.
	XXXV	Coinage ...	Rep., VIII of 1868.
	XXXVI	Registry for Wills and Deeds ...	Rep., XVI of 1864.
	XXXVII	Bádsháhí Lákhiráj grants ...	Rep. in part, XVI of 1874; Reg. VIII of 1800, ss. 11, 12, and 15; Reg. II of 1819; locally, Reg. V of 1813.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1793	XXXVIII	Loans by Civil Servants ...	Rep. in part, VIII of 1868; XVI of 1874; Printed, N. W. P. Code, p. 1.
	XXXIX	Kázís ...	Rep., XI of 1864.
	XL	Commissions to hear petty suits ...	Rep., Reg. XXIII of 1814.
	XLI	For codifying Regulations ...	Rep., VIII of 1868.
	XLII	Collection of Customs ...	Rep., Reg. IX of 1810.
	XLIII	Grants to sepoy invalids ...	Rep., XXIX of 1871.
	XLIV	Grant of leases .	Rep., XXIX of 1871.
	XLV	Execution-sales of Málguzárí and Lákhíráj lands.	Rep., IV of 1846.
	XLVI	Pauper suits ..	Rep., Reg. XXVIII of 1814.
	XLVII	Judges of Provincial Courts of Appeal.	Rep., VIII of 1868.
	XLVIII	Quinquennial Register ...	Rep. in part, VIII of 1868; XVI of 1874; XII of 1876; Reg. VIII of 1800, ss. 11, 12, and 15.
	XLIX	Disputed Boundaries ...	Rep., IV of 1840.
	L	Court of Wards ...	Rep., XVI of 1874.
	LI	Illicit manufacture of spirit ...	Rep., Reg. X of 1813.
1794	I	Illicit distilling ...	Rep., Reg. X of 1813.
	II	Postponing Reg. VIII of 1793 in Bhágalpur.	Rep., VIII of 1868.
	III	Revenue-arrears, &c. ...	Rep. in part, XII of 1873; XVI of 1874; XII of 1876; Ben. Act VII of 1868, s. 29.
	IV	Rayatí Pattás ...	Rep., X of 1859.
	V	Appeals ...	Rep., VIII of 1868.
	VI	Silver Coin ...	Rep., VIII of 1868.
	VII	Courts of Circuit ...	Rep., XVII of 1862.
	VIII	Registrars of Zila and City Courts	Rep., VIII of 1868.
1795	I	Permanent Settlement, Benares	Rep. in part, XII of 1876; Printed, N. W. P. Code, p. 2.
	II	Temporary Settlement, Benares ...	Rep., XIX of 1873.
	III	Collection of Customs, Benares ...	Rep., Reg. IX of 1810.
	IV	Internal duties, Benares ...	Rep., VIII of 1868.
	V	Collectors of Revenue, Benares ...	Rep., XIX of 1873.
	VI	Realization of revenue, Benares ...	Rep., XIX of 1873.
	VII	Courts of Díwání Adálat, Benares	Rep., VI of 1871.
	VIII	Extending Reg. IV of 1793 to Benares.	Rep., XVI of 1874.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1795	IX	Provincial Court of Appeal, Benares.	Rep., X of 1861.
	X	Appeals, Benares .	Rep., XXIX of 1871.
	XI	Extending Reg. XII of 1793 to Benares.	Rep., XI of 1864.
	XII	Extending Reg. XIII of 1793 to Benares.	Rep., XXIX of 1871.
	XIII	Extending Reg. VII of 1793 to Benares.	Rep., Reg. XXVII of 1814.
	XIV	Extending Reg. XLIX of 1793 to Benares.	Rep., IV of 1840.
	XV	Extending Reg. XVI of 1793 to Benares.	Rep. in part, X of 1861; XII of 1876; Reg. XXVII of 1814; Printed, N. W. P. Code, p. 5.
	XVI	Criminal Procedure, Benares ...	Rep., VIII of 1868.
	XVII	Police, Benares ..	Rep., VIII of 1868.
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	XXI	Dharna, Infanticide, Benares ..	Rep., XVII of 1862.
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	XXVII	Permanent Settlement, Benares...	Rep. in part, IV of 1846; XVI of 1874; Reg. XII of 1817; Printed, N. W. P. Code, p. 7.
	XXVIII	Extending Reg. XXXVI of 1793 to Benares.	Rep., XVI of 1864.
	XXIX	Extending Reg. XX of 1793 to Benares.	Rep., VIII of 1868.
	XXX	Extending Reg. XXI of 1793 to Benares.	Rep., XII of 1873.
	XXXI	Extending Reg. XL of 1793 to Benares.	Rep., Reg. XXIII of 1814.
	XXXII	Opium, Benares ...	Rep., XIII of 1857.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1795	XXXIII	Indigo, Benares ...	Rep., VIII of 1868.
	XXXIV	Pensions, Benares ...	Rep., XXIII of 1871.
	XXXV	Recovery of rent and revenue ...	Rep., X of 1859.
	XXXVI	Appeals ...	Rep., VIII of 1868.
	XXXVII	Suits in Subordinate Courts ...	Rep., Reg. VII of 1829.
	XXXVIII	Court Fees ...	Rep., VIII of 1868.
	XXXIX	Customs, Calcutta ...	Rep., Reg. IX of 1810.
	XL	Salt ..	Rep., Reg. VI of 1801.
	XLI	Non-bádsháhí Lákhiráj, Benares .	Rep., XIX of 1873.
	XLII	Bádsháhí Lákhiráj, Benares ...	Rep., XIX of 1873.
	XLIII	Grants to invalid sepoys, Benares...	Rep., XXIX of 1871.
	XLIV	Inheritance of revenue-paying land, Benares	Printed, N.-W. P. Code, p. 14.
	XLV	Distress for rent, Benares ...	Rep., X of 1859.
	XLVI	Extending Reg. XXXIII of 1793 to Benares . .	Rep., XXVI of 1871.
	XLVII	Ábkárí, Benares ...	Rep., Reg. X of 1813.
	XLVIII	Loans by Civil Servants, Benares...	Rep., XV of 1874.
	XLIX	Kázís, Benares ...	Rep., XI of 1864.
	L	Leases by landholders, Benares ...	Rep., XXIX of 1871.
	LI	Rayatí Pattás, Benares ...	Rep., XIX of 1873.
	LII	Importation of salt, B. B. & O. ...	Rep., Reg. X of 1819.
	LIII	Opium, Bengal ...	Rep., XIII of 1857.
	LIV	Extending to Benares parts of Regs. VIII of 1794 and XXXVI of 1795 ..	Rep., X of 1861.
	LV	Security from guardians ...	Rep., XVI of 1874.
	LVI	Heirs of invalids, B. B. & O. ...	Rep., Reg. I of 1804.
	LVII	Duties, Calcutta ...	Rep., Reg. IX of 1810.
	LVIII	Commission on jama: copies of decrees.	Rep., XII of 1876.
	LIX	Silver coin ...	Rep., VIII of 1868.
	LX	Extending to Benares Reg. XXXVIII of 1795.	Rep , VIII of 1868.
	LXI	Sicca Rupees, B. B. & O. ...	Rep., VIII of 1868.
	LXII	Murshídábád Mint ...	Rep., VIII of 1868.
1796	I	Trials of hillmen in Rájmahál ...	Rep., Reg. I of 1827.
	II	Trials of European British subjects	Rep., XVII of 1862.
	III	Court of Wards ...	Rep., XXIX of 1871.
	IV	Absence of Judges and Magistrates	Rep., XXIX of 1871.
	V	Public sales of land, B. B. & O. ...	Rep., Reg. XI of 1822.
	VI	Criminal law ...	Rep., Reg. XIV of 1810.
	VII	Court of Wards ...	Rep., VIII of 1868.
	VIII	Pleaders' fees, B. B. & O. ...	Rep., Reg. XXVII of 1814.
	IX	Prisoners' witnesses ...	Rep., XVII of 1862.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1796	X	Construction of Regulations ...	Rep., VIII of 1868.
	XI	Resisting Process ...	Rep., XVII of 1862.
	XII	Deposit at public sales of land ...	Rep., IV of 1846.
	XIII	Execution of decrees ...	Rep., X of 1861.
1797	I	Duties, Calcutta: opium ...	Rep., Reg. IX of 1810.
	II	Police responsibility of landholders, Benares.	Rep., XXIX of 1871.
	III	Court of Circuit ...	Rep., VIII of 1868.
	IV	Amending Reg. IX of 1793 ...	Rep., XVII of 1862.
	V	Dharna, B. B. & O. ...	Rep., Reg. VII of 1820.
	VI	Appropriation of Police funds ...	Rep., XXIX of 1871.
	VII	Zila of Bákarganj	Rep., XII of 1873.
	VIII	Recovery of losses by theft, Benares	Rep., VIII of 1868.
	IX	Duty on indigo ...	Rep., Reg. IX of 1810.
	X	Stamps on Ábkárí licenses ..	Rep., Reg. I of 1814.
	XI	Bonds of British suitors ...	Rep., VIII of 1868.
	XII	Appeals to Sadr Díwání Adálat ...	Rep., X of 1861.
	XIII	Assistant Magistrates ...	Rep., XVII of 1862.
	XIV	Fines: Restitution of stolen property.	Rep., XVII of 1862.
	XV	Fees on division and transfer of estates.	Rep. locally, XIX of 1873; in part, XII of 1876.
	XVI	Appeals to Privy Council ...	Rep., VI of 1874.
	XVII	Punishment for perjury ...	Rep., Reg. II of 1807.
	XVIII	Zila Judge, Chittagong ...	Rep., Reg. XXIII of 1814.
	XIX	Translations of proceedings in zila and city Courts.	Rep., X of 1861.
1798	I	Conditional sales ...	Printed, N.-W. P. Code, p. 16.
	II	Reviews ...	Rep., VIII of 1868.
	III	Vacations: Gaol deliveries ...	Rep., XVII of 1862.
	IV	Officers of Salt Chaukís ...	Rep., Reg. X of 1819.
	V	Appeals, Court-fees ...	Rep., X of 1861.
1799	I	Trade on Silhet Frontier ...	Rep. in part, XVI of 1874; Reg. II of 1828.
	II	Gaol deliveries: Escaped convicts	Rep., XVII of 1862.
	III	Postponing in Silhet Reg. XXXV of 1793, s. 20.	Rep., VIII of of 1868.
	IV	Trial of crimes against the State...	Rep., XVII of 1862.
	V	Native Wills and Intestacies ...	Rep. in part, XL of 1858; XVI of 1784; locally, XXI of 1870, s. 4; Printed, N.-W. P. Code, p. 18.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1799	VI	Opium ...	Rep., Reg. XIII of 1816.
	VII	Recovery of arrears of rent and revenue.	Rep., XVI of 1874.
	VIII	Criminal law ...	Rep., XVII of 1862.
	IX	Resisting civil process ...	Rep., XXIX of 1871.
	X	Transmission of records of trials ...	Rep., XVII of 1862.
1800	I	Guardians of minors not subject to Court of Wards.	Rep., XL of 1858.
	II	Quarries at Chunar, &c. ...	Rep. in part, XVI of 1874; Printed, N.-W. P. Code, p. 21.
	III	Reference of appeals to Registrars	Rep., X of 1861.
	IV	Adulteration of sált ...	Rep., Reg X of 1819.
	V	Extending Reg. VII of 1799 to Benares.	Rep., XVI of 1874.
	VI	Tax on sale of spirits, &c. ...	Rep., Reg. X of 1813.
	VII	Stamps ...	Rep., Regs. I and XXIII of 1814.
	VIII	Pargana Register ...	Rep. locally, XIX of 1873; in part, XVI of 1874.
	IX	College at Fort William ...	Rep., Reg. XX of 1814.
	X	Division of estates, Jungle Mahálś.	
	XI	Customs, Calcutta ...	Rep., Reg. IX of 1810.
1801	I	Realization of revenue ...	Rep. in part, XVI of 1874; XII of 1876; Reg. XIX of 1814; Reg. XI of 1822; locally, XIX of 1873; locally, Reg. XII of 1817.
	II	Sadr Díwání and Nizámat Adálat	Rep., XXIX of 1871.
	III	Groundless charges of perjury ...	Rep., XVII of 1862.
	IV	Modifying Reg. IX of 1800 ...	Rep., Reg. XX of 1814.
	V	Calcutta town-duties ...	Rep., Reg. X of 1810.
	VI	Salt ...	Rep., Reg. X of 1819.
	VII	Duty on coasting-vessels, &c. ...	Rep., XVI of 1874.
	VIII	Criminal law ...	Rep., XVII of 1862.
	IX	Salt manufacture ...	Rep., VIII of 1868.
	X	Town-duties ...	Rep., Reg. X of 1810.
	XI	Customs at Calcutta, &c. ...	Rep., Reg. IX of 1810.
	XII	Seizing salt ...	Rep., Reg. X of 1819.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1802	I	Customs ...	Rep., Reg. IX of 1810.
	II	Duty on spirit made in European fashion.	Rep., XXI of 1856.
	III	Security from defendants: Pauper suits.	Rep., X of 1861.
	IV	Second Court of appeal, Dháká ...	Rep., VIII of 1868.
	V	Customs and town-duties ..	Rep., Reg. IX of 1810.
	VI	Sacrifice of children ...	Rep., XVII of 1862.
	VII	Exemption from Customs duties ..	Rep., Reg. IX of 1810.
1803	I	Codifying Regulations, Ceded Provinces.	Rep., VIII of 1868.
	II	Zila Courts, Ceded Provinces.	Rep., VI of 1871.
	III	Civil suits, Ced. P. ...	Rep., XIX of 1873.
	IV	Provincial Court of appeal, Ced. P.	Rep, X of 1861.
	V	Appeals from Provincial Court of appeal, Ced. P.	Rep., VI of 1874.
	VI	Powers and duties of Magistrates, Ced P.	Rep., VIII of 1868.
	VII	Court of Circuit, Ced. P. ...	Rep., VIII of 1868.
	VIII	Nizámat Adálat, Ced. P. ...	Rep., XXIX of 1871.
	IX	Power to propose Regulations, Ced. P.	Rep., VIII of 1868.
	X	Native Pleaders, Ced. P. ...	Rep., Reg. XXVII of 1814.
	XI	Native Law Officers, Ced. P. ...	Rep., XI of 1864.
	XII	Ministerial officers of Courts, Ced. P.	Rep., XXIX of 1871.
	XIII	Records of Courts, Ced. P. ..	Rep, XVI of 1874.
	XIV	Pauper suits, Ced. P. ...	Rep., Reg. XXVIII of 1814.
	XV	Judges, Ced. P. ...	Rep., VIII of 1868.
	XVI	Trial of Small Causes by Natives, Ced. P.	Rep., Reg. XXIII of 1814.
	XVII	Registry for wills and deeds, Ced. P.	Rep , XVI of 1864.
	XVIII	British subjects, Ced. P. ...	Rep., VIII of 1868.
	XIX	Loans by civilians, Ced. P. ...	Rep., XV of 1874.
	XX	State offences, Ced. P. .	Rep., XVII of 1862.
	XXI	Reference to arbitration, Ced. P.	Rep., X of 1861.
	XXII	Construction of Regulations, Ced. P.	Rep., VIII of 1868.
	XXIII	Revenue Records, Ced. P. ...	Rep., XIX of 1873.
	XXIV	Pensions, Ced. P ...	Rep., XXIII of 1871.
	XXV	Board of Revenue, Collectors, Ced. P.	Rep., XIX of 1873.
	XXVI	Sale and division of revenue-paying lands, Ced. P.	Rep., XXIX of 1871.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1803	XXVII	Realization of land-revenue, Ced. P.	Rep., XIX of 1873.
	XXVIII	Distress for rent, Ced. P. ...	Rep., X of 1859.
	XXIX	Patwárís, Ced. P. ...	Rep., Reg. XII of 1817
	XXX	Grant of pattás, Ced. P. ...	Rep., XIX of 1873.
	XXXI	Non-bádsháhí grants, Ced. P. ...	Rep., XIX of 1873.
	XXXII	Boundary disputes, Ced. P. ...	Rep. IV of 1840.
	XXXIII	Embezzlement of public money, Ced. P.	Rep. in part, XII of 1876; Printed, N.-W. P. Code, p. 29.
	XXXIV	Interest, Ced. P. ...	Rep., XV of 1874.
	XXXV	Police, Ced. P. ...	Rep., XXIX of 1871.
	XXXVI	Bádsháhí grants, Ced. P. ...	Rep., XIX of 1873.
	XXXVII	Company's Investment, Ced. P. ...	Rep., VIII of 1868.
	XXXVIII	Abolition of transit-duties, Ced. P.	Rep., Reg. IX of 1810.
	XXXIX	Salt, Ced. P. ...	Rep., Reg. VI of 1804.
	XL	Sale of spirits, Ced. P. ...	Rep., Reg. X of 1813.
	XLI	Cultivation of Poppy, Ced. P. ...	Rep., Reg. XIII of 1816.
	XLII	Register of revenue-paying estates, Ced. P.	Rep., XIX of 1873.
	XLIII	Court Fees, Ced. P.	Rep., XVI of 1874.
	XLIV	Repair of water-courses, &c., Ced. P.	Rep., XXVI of 1871.
	XLV	Coinage, Ced. P. ...	Rep., VIII of 1868.
	XLVI	Kázi-ul-kuzát, Ced. P. ...	Rep., XI of 1864.
	XLVII	Power to grant leases, Ced. P. ...	Rep., XXIX of 1871.
	XLVIII	Adulteration of salt ...	Rep., Reg. X of 1819.
	XLIX	Assistant Judges, appeals ...	Rep, XVI of 1874.
	L	Witnesses: oaths ...	Rep., XVII of 1862.
	LI	Court of Circuit, Ced. P. ...	Rep., VIII of 1868.
	LII	Court of Wards, Ced. P. ...	Rep., XIX of 1873.
	LIII	Criminal law ...	Rep., XVII of 1862.
	LIV	Postponing in Chittagong Reg. XXXV of 1793, sec. 20.	Rep., VIII of 1868.
1804	I	Invalid jágírs and pensions .	Rep., XXIX of 1871.
	II	Gaol deliveries ..	Rep., VIII of 1868.
	III	Criminal law, Ced. P. ...	Rep., XVII of 1862.
	IV	Criminal law, Katák ..	Rep., VIII of 1868.
	V	Native officers ...	Rep., XVI of 1874.
	VI	Salt, Ced. and Conq. P. and Benares	Rep., VIII of 1868.
	VII	Duty on Salt, Ced. and Conq. P....	Rep., VIII of 1868.
	VIII	Zilas of Allahábád and Gorakhpur	Rep., VIII of 1868.
	IX	Criminal Procedure, Ced. and Conq. P.	Rep., X of 1872.
	X	State offences ...	Rep. in part, XVI of 1874; Printed, N.-W. P. Code, p. 32.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1804	XI	Collection of Customs, Ced. and Conq. P.	Rep., Reg. IX of 1810.
1805	I	Appeals from Courts at Chandernagore and Chinsurah.	Rep., VIII of 1868.
	II	Limitation ...	Rep., VIII of 1868.
	III	Punishment of Robbery ...	Rep., XVII of 1862.
	IV	Company's Investment ...	Rep., VIII of 1868.
	V	Settlement, Ced. P. ...	Rep., VIII of 1868.
	VI	Town-duties, Ced. and Conq. P. ...	Rep., Reg. X of 1810.
	VII	Covenanted Servants engaging in trade.	Rep., VIII of 1868.
	VIII	Extending certain Regulations, Conq. P.	Rep., XIX of 1873.
	IX	Settlement, Conq. P. ...	Rep., XIX of 1873.
	X	Chief Judge, Sadr. Díwání and Nizámat Adálat.	Rep., XVI of 1874.
	XI	Coinage, Conq. P. ...	Rep., VIII of 1868.
	XII	Land-Revenue, Katák ...	Rep. in part, X of 1840; X of 1859, s. 28; XVI of 1864; XVI of 1874.
	XIII	Police, Katák ...	Rep. in part, XVI of 1874; XII of 1876.
	XIV	Civil Suits, Katák ...	Rep., XII of 1876.
	XV	Trials by Native Law Officers ...	Rep., X of 1861.
	XVI	Chandernagore and Chinsurah ...	Rep., VIII of 1868.
	XVII	Joint undivided estates ...	Rep., XXIX of 1871.
	XVIII	Jungle mahál ...	Rep., VIII of 1868.
	XIX	Nawáb Názim ...	Rep., XXVII of 1854.
1806	I	Murshídábád ...	Rep., VIII of 1868.
	II	Civil Procedure ...	Rep., X of 1861.
	III	Silver and Copper coinage, Ced. and Conq. P.	Rep., VIII of 1868.
	IV	Pilgrims to Temple of Jagannáth	Rep., X of 1840.
	V	Tax under Reg. IV of 1806 ...	Rep., X of 1840.
	VI	Repair of Embankments ...	Rep., XVI of 1874.
	VII	Court of 24-Parganas ...	Rep., XVI of 1874.
	VIII	Complaints against Collectors ...	Rep., XVI of 1874.
	IX	Salt ...	Rep., Reg. X of 1819.
	X	Complaints against Judges ...	Rep., XXIX of 1871.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1806	XI	Passage of troops	Rep. in part, XVI of 1874; XII of 1876; Reg. II of 1811; Reg. III of 1820; Printed, N.-W. P. Code, p. 34.
	XII	Parganas of Sonk, Sonsa and Sahar	Rep., XV of 1874.
	XIII	Stamps ..	Rep., Reg. I of 1814; Reg. X of 1829.
	XIV	Sahâranpur	Rep., XV of 1874.
	XV	European British offenders .	Rep., XVII of 1862.
	XVI	Názim of Bengal	Rep., XXVII of 1854.
	XVII	Interest: Redemption ..	Rep. in part, XXVIII of 1855; Printed, N.-W. P. Code, p. 40.
	XVIII	Canal-tolls, Ben. ...	Rep., XII of 1873.
	XIX	Duty on Spirits ...	Rep., Reg. IX of 1810.
	XX	Sale of Spirits in Cantonments ...	Rep., Reg. X of 1813.
	XXI	Tahsíldárs, Benares, &c. ..	Rep., XXIX of 1871.
	XXII	Pensions .	Rep., XXIII of 1871.
1807	I	Provincial Courts of Appeal ...	Rep., X of 1861.
	II	Punishment of Perjury and Forgery	Rep., XVII of 1862.
	III	College at Fort William .	Rep., Reg. XX of 1814.
	IV	Rates of issuing and receiving rupees.	Rep., VIII of 1868.
	V	Cultivation of Poppy ...	Rep , Reg. XIII of 1816.
	VI	Partition of small estates ...	Rep., Reg. XIX of 1814.
	VII	Payment of revenue, Benares ..	Rep., XIX of 1873.
	VIII	Stamps ...	Rep., Reg. I of 1814.
	IX	Criminal Procedure ...	Rep , XVII of 1862.
	X	Settlement, Ced. and Conq. Provinces.	Rep., VIII of 1868.
	XI	Control of Customs ...	Rep., VIII of 1868.
	XII	Police, Lower Provinces ...	Rep., VIII of 1868.
	XIII	Currency ...	Rep., VIII of 1868.
	XIV	Police, Benares, &c. ..	Rep., XXIX of 1871.
	XV	Judges, S. D. and Nizámat Adálat	Rep., VIII of 1868.
1808	I	Tax on Tárí ...	Rep., Reg. X of 1813.
	II	Minors, Chandernagore ...	Rep., VIII of 1868.
	III	Sale of Tárí ..	Rep., Reg. X of 1813.
	IV	Kánúngo, Benares, &c. ...	Rep., XIX of 1873.
	V	Settlement, Ced. P.	Rep., XXIX of 1871.

Year.	Number.	Subject-matter	How repealed or otherwise disposed of.
1808	VI	Settlement, Katák	Rep., VIII of 1868.
	VII	Registers of land free of assessment, Ced. and Conq. P.	Rep., XXIX of 1871.
	VIII	Punishment of Robbery	Rep., XVII of 1862.
	IX	Dacoits ...	Rep., IV of 1844.
	X	Superintendent of Police, Ben. ...	Rep., VIII of 1868.
	XI	Rent of heirs of invalid jágírdárs	Rep , XXIX of 1871.
	XII	Administration of justice, Serampore	Rep., Reg. III of 1816.
	XIII	Civil Procedure ...	Rep., X of 1861.
1809	I	Board of Commissioners, Upper Provinces.	Rep , VIII of 1868.
	II	General Courts Martial ...	Rep., VIII of 1868.
	III	Police in Cantonments	Rep., XXIX of 1871.
	IV	Temple of Jagannáth ...	Rep., X of 1840.
	V	Trial of Natives committing offences abroad.	Rep., I of 1849.
	VI	Cultivation of Poppy ...	Rep., Reg. XIII of 1816.
	VII	Stamps ...	Rep., Reg. I of 1814.
	VIII	Native Officers .	Rep , XVI of 1874.
	IX	Administration of justice at Chinsurah and Chandernagore.	Rep., VIII of 1868.
	X	Copper Coinage, Benares ...	Rep., VIII of 1868.
1810	I	Native Law Officers ...	Rep., XVII of 1862.
	II	Robberies by Cozaucks .	Rep., Reg XV of 1812.
	III	Oaths of Paupers	Rep., Reg. XXVIII of 1814.
	IV	Commissioner in Katák ...	Rep., VIII of 1868.
	V	Division of revenue-paying estates	Rep., Reg. XIX of 1814.
	VI	Information of robberies	Rep., X of 1872.
	VII	Canal-tolls ...	Rep., XXII of 1836.
	VIII	Superintendents of Police .	Rep , VIII of 1868.
	IX	Customs	Rep. VI of 1863.
	X	Town-duties ...	Rep., XVI of 1874.
	XI	Temple of Jagannáth ...	Rep., X of 1840.
	XII	Amending Regs. VII and X of 1809	Rep., VIII of 1868.
	XIII	Civil Procedure ...	Rep., X of 1861.
	XIV	Criminal Procedure ...	Rep , XVII of 1862.
	XV	House-tax	Rep., Reg. VII of 1812.
	XVI	Magistrates ...	Rep., X of 1872.
	XVII	Salt ...	Rep. in part, Reg. XX of 1817; Reg. XVI of 1829; XIV of 1836; Residue rep., XIV of 1843.
	XVIII	Duties on Pilgrims ...	Rep., X of 1840.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1810	XIX	Native Endowments, Escheats ...	Rep. in part, XX of 1863; Reg. XVII of 1816, s. 16; Printed, N.-W. P. Code, p. 43.
	XX	Army-retainers: Military bázárs	Rep. in part, XI of 1841; XXII of 1864; XVI of 1874; XII of 1876; X of 1877; Printed, N.-W. P. Code, p. 46.
1811	I	House-breaking: Stolen goods, B. B. & O.	Rep., X of 1872.
	II	Invalid Native Officers ...	Rep., XXIII of 1871.
	III	Trade of foreign nations ...	Rep., VIII of 1868.
	IV	Exemption from house-tax ...	Rep., Reg. VII of 1812.
	V	Duty on pachwai ...	Rep., Reg. X of 1813.
	VI	Repealing Reg. XXVII of 1793 in part, B. B. & O.	Rep., VIII of 1868.
	VII	Police ...	Rep., XVII of 1862.
	VIII	Modifying Regs. XXXI and XXXVI of 1803.	Rep., Reg. II of 1819.
	IX	Division of estates ...	Rep., XVI of 1874.
	X	Importation of slaves ...	Rep., VIII of 1868.
	XI	Jama on divided estates ...	Rep. locally, XIX of 1863; in part, XVI of 1874; XII of 1876.
	XII	Sadr Díwání Adálat ...	Rep., VIII of 1868.
	XIII	Board of Revenue, B. B. O. & Katák.	Rep., XXIX of 1871.
	XIV	Transportation, 24-Parganas ...	Rep., XVII of 1862.
1812	I	Duty on horses: Export of Woollens, Ben.	Rep., VIII of 1868.
	II	Coinage of gold and silver ...	Rep., XXIII of 1870.
	III	Criminal Procedure, &c. ...	Rep., XVI of 1874.
	IV	Suits by or against Native Princes	Rep., X of 1861.
	V	Collection of Land-revenue ...	Rep. locally, XIX of 1873; in part, XVI of 1874; XII of 1876; X of 1859; Reg. XII of 1824; Reg. VII of 1830; Reg. VIII of 1831.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1812	VI	Bond under Reg. III of 1811 ..	Rep., Reg. VII of 1818.
	VII	Rescinding Regs. XV of 1810 and IV of 1811.	Rep., VIII of 1868.
	VIII	Saltpetre ...	Rep., Reg. IV of 1814.
	IX	Settlement of Ced. P. ...	Rep., XXIX of 1871.
	X	Settlement of Conq. Provinces and Katák.	Rep., XXIX of 1871.
	XI	Immigrants ...	Rep. in part, XVI of 1874; Printed, N.-W. P. Code, p. 51.
	XII	Stamps ...	Rep., Reg. I of 1814.
	XIII	Sale of spirits ..	Rep., Reg. X of 1813.
	XIV	Leases, Ced. and Conq. P., Katák	Rep., XXIX of 1871.
	XV	Extending parts of Reg. I of 1811	Rep., XVI of 1874.
	XVI	Execution by Judge of 24-Parganas of judgments of Calcutta Court of Requests.	Rep., VIII of 1868.
	XVII	Duties under Reg. I of 1812 ...	Rep., Reg. XIV of 1813.
	XVIII	Leases: Assessment on shares of divided estates.	Rep. in part, XVI of 1874; locally, XIX of 1873.
	XIX	Collection of Customs and Town-Duties.	Rep., VIII of 1868.
	XX	Registry of Deeds .	Rep., XVI of 1864.
	XXI	Repealing part of Reg. I of 1811	Rep., VIII of 1868.
	XXII	Exempting parts of Bandelkhand from Regulations.	Rep. in part, XVI of 1874; Printed, N.-W. P. Code, p. 53.
1813	I	Settlement of Katák, &c. ...	Rep., VIII of 1868.
	II	For preventing Native officers from using public money.	Rep., XXIX of 1871.
	III	Review in appealable Civil cases ...	Rep, Reg. XXVI of 1814, s. 4.
	IV	Toll on boats passing through certain rivers.	Rep, Reg. VIII of 1824.
	V	Modifying Regs. XIX and XXXVII of 1793.	Rep., Reg. II of 1819.
	VI	Referring land suits to arbitration	Rep., X of 1861.
	VII	Extending Reg. III of 1801 and Reg. VIII of 1794, s. 13.	Rep., VIII of 1868.
	VIII	Trials of persons committing offences abroad.	Rep., I of 1849.
	IX	Transportation ...	Rep., XVII of 1862.
	X	Manufacture and sale of spirits ..	Rep., XXI of 1856.
	XI	Pensions ...	Rep., XXIII of 1871.
	XII	Collection of Customs and Town Duties.	Rep, VIII of 1868.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1813	XIII	Police Chaukídárs, Dháká, &c.	Rep., Reg XXII of 1816.
	XIV	Import-duties on horses ...	Rep., VIII of 1868.
	XV	Díwán to Collectors ...	Rep., VIII of 1868.
	XVI	Rescinding Reg. XIII of 1806, s. 10	Rep., Reg. I of 1814.
	XVII	Charges against European officers	Rep., XXVI of 1839.
1814	I	Stamps ...	Rep., Reg. X of 1829.
	II	Suits against public officers ...	Rep., X of 1861.
	III	Extending Reg. XIII of 1813 ...	Rep., Reg. XXII of 1816.
	IV	Repealing Reg. VIII of 1812 ...	Rep., VIII of 1868.
	V	Judges of Provincial Courts of Appeal.	Rep., VIII of 1868.
	VI	Modifying Regs. IX of 1810 and I of 1812.	Rep., XII of 1873.
	VII	Copper Coinage, Benares ...	Rep., VIII of 1868.
	VIII	Liability of Zamíndárs to give information of murders, &c.	Rep., X of 1872.
	IX	Explaining Regs. XIII of 1813 and III of 1814	Rep., VIII of 1868.
	X	Explaining Reg. I of 1814 ...	Rep., VIII of 1868.
	XI	House-breaking ...	Rep., XVII of 1862.
	XII	Pensions to Invalid Sepoys ...	Rep., VI of 1849.
	XIII	Abolition of Katwál in Dháká, &c.	Rep., VIII of 1868.
	XIV	Twenty-four Parganas ...	Rep., Reg. VIII of 1832.
	XV	Convictions for several offences ...	Rep., XVII of 1862.
	XVI	Extending Reg. XIII of 1813 ...	Rep., Reg. XXII of 1816.
	XVII	Recovery of arrears due from distillers.	Rep., XXI of 1856.
	XVIII	Sales for arrears of revenue ...	Rep., Reg. XI of 1822.
	XIX	Partition of revenue-paying estates	Rep. in part, XI of 1838; XVI of 1874; locally, XIX of 1863.
	XX	Rescinding Regulations relating to College of Fort William.	Rep., VIII of 1868.
	XXI	Preventing Zila Judges and Collectors from employing Native Creditors.	Rep., XXIX of 1871.
	XXII	Salt, Katák ...	Rep, Reg. X of 1819.
	XXIII	Munsifs and Sadr Amíns ...	Rep., XVI of 1868.
	XXIV	Zila and City Courts ..	Rep., X of 1861.
	XXV	Sadr Díwání Adálat and Provincial Courts.	Rep., XVI of 1874.
	XXVI	Civil Procedure ...	Rep., XII of 1873.
	XXVII	Vakíls ...	Rep., XVI of 1874.
	XXVIII	Pauper suitors ...	Rep., X of 1861.
	XXIX	Ghátwálí Maháls.	

Year.	Number.	Subject-matter	How repealed or otherwise disposed of.
1815	I	Mukarrari grants, C. C. P. ...	Rep., XXIX of 1871.
	II	Extending Reg. XXIV of 1814, s. 12, cl. 7.	Rep., X of 1861.
	III	Settlement of Katák .	Rep., VIII of 1868
	IV	Collection of ustoms ...	Rep., VIII of 1868.
	V	Pargana of B grı ...	Rep., Reg IX of 1817.
1816	I	Superintendence of revenues, Benares and Bihár.	Rep., Reg III of 1822.
	II	Kánúngo, Bihár ...	Rep , VIII of 1868.
	III	Repealing Reg. XII of 1808 .	Rep., VIII of 1868.
	IV	Petitions by prisoners .	Rep., VIII of 1868.
	V	Kánúngo, Katák, &c. ...	Rep. in part, XVI of 1874.
	VI	Settlement, Katák, &c. ...	Rep., VIII of 1868.
	VII	Amrat Rao's Jágír ...	Rep., XVII of 1853.
	VIII	Superintendent and Remembrancer of Legal Affairs.	Rep., Reg. XIII of 1829.
	IX	Commissioner of Revenue, Sundarbans.	Rep. in part, XVI of 1874.
	X	Export and Import of Saltpetre	Rep., Reg XV of 1825.
	XI	Succession, Katák	Rep. in part, XVI of 1874; XII of 1876.
	XII	Custom-house, Cox's Bázár ...	Rep., VIII of 1868.
	XIII	Opium .	Rep in part, XXI of 1856, Residue rep., XIII of 1857.
	XIV	Jails ..	Rep , XXVI of 1870.
	XV	Trial of Suits to which Sepoys are parties.	Rep , X of 1861.
	XVI	Settlement, Ceded Provinces ...	Rep., VIII of 1868.
	XVII	Police ..	Rep., XVI of 1874.
	XVIII	Pargana of Hendya	Rep., XV of 1874, sec. 9.
	XIX	Ferries ...	Rep., Reg. VI of 1819.
	XX	Modifying Reg. III of 1811 ...	Rep., Reg. VII of 1818.
	XXI	Copper Pice ...	Rep., VIII of 1868.
	XXII	Chaukídárs of Police	Rep., XX of 1856.
1817	I	Commissioner in Bihár and Benares	Rep., Reg. III of 1822.
	II	Kánúngo, Ramghar, &c., Zilas	Rep , VIII of 1868.
	III	Petty suits ..	Rep., X of 1861.
	IV	Dehra Dún	Rep., VIII of 1868.
	V	Hidden Treasure . .	Rep. in part, VIII of 1868; XVI of 1874; XII of 1876; Printed, N.-W. P. Code, p. 55.
	VI	Explaining Reg. XXIV of 1803, s. 2.	Rep , XXIII of 1871.
	VII	Chaukídárs of Police .	Rep , XX of 1856

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1817	VIII	Modifying Reg. XVII of 1813 ...	Rep., XXVI of 1839.
	IX	Repealing Reg. V of 1815 ...	Rep., VIII of 1868.
	X	Trial of persons committing offences in Kumáon.	Rep., X of 1838.
	XI	Modifying Regs. XIX and XXXVII of 1793.	Rep., Reg. II of 1819.
	XII	Patwárís	Rep. in part, XVI of 1874; XII of 1876; locally, XIX of 1873.
	XIII	Kánúngo, Midnápur	Rep., XXIX of 1871.
	XIV	Amending Reg. II of 1812 ...	Rep., XXIII of 1870.
	XV	Duty on foreign salt ..	Rep., XVI of 1837.
	XVI	Duty on foreign opium ...	Rep., XXIX of 1871.
	XVII	Criminal Procedure ..	Rep., XVII of 1862.
	XVIII	Oaths of office: Native officers ...	Rep., XXIX of 1871.
	XIX	Civil Procedure: arrears of rent . .	Rep., X of 1861.
	XX	Police ...	Rep. in part, XVIII of 1835; X of 1839; XVII of 1862; X of 1872; XVI of 1874; VIII of 1875; XII of 1876; in part, locally, XVI of 1873; Ben. Act VI of 1870; Printed, N.-W. P. Code, p. 57.
	XXI	Modifying Reg. IV of 1815 ...	Rep., VI of 1863.
	XXII	Native ministerial officers, Katák...	Rep., Reg. V of 1818, s. 7.
	XXIII	Modifying Regs. XIX and XXXVII of 1793.	Rep., Reg. II of 1819.
	XXIV	Commission in Bihár and Benares	Rep., XXIX of 1871.
	XXV	Pice ...	Rep., VIII of 1868.
	XXVI	Farakhábád rupees ...	Rep., VIII of 1868.
1818	I	Kánúngo, Twenty-four Parganas, &c.	Rep., XXIX of 1871.
	II	Iláka of Khanda ...	Rep., XV of 1874.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1818	III	State Prisoners ...	Rep. in part, XVI of 1874; Printed, N.-W.P. Code, p. 59.
	IV	Díwání Adálat, Saháranpur ...	Rep., XV of 1874.
	V	Commissioner, Zila Katák ..	Rep., VIII of 1868.
	VI	Prisoners: Courts of Circuit ...	Rep., XVII of 1862.
	VII	Foreign Trade .	Rep., Reg. II of 1830.
	VIII	Security for good behaviour ...	Rep., XVII of 1862.
	IX	Settlement, Conq. Provinces ..	Rep., VIII of 1868.
	X	Collection of Revenue, Katák ...	Rep., XI of 1859.
	XI	Modifying Reg. XIII of 1816 ...	Rep., XXI of 1856.
	XII	Housebreaking ...	Rep., XVII of 1862.
	XIII	Settlement, Katák .	Rep., VIII of 1868.
	XIV	Calcutta Sicca rupee and goldmohur	Rep., XXIII of 1870.
1819	I	Dinájpur, Rangpur, Gorakhpur	Rep. in part, XII of 1873; locally, XIX of 1873.
	II	Resumption of revenue ..	Rep. in part, XII of 1873; XVI of 1874; XII of 1876; locally, XIX of 1873; in part, locally, Ben. Act VII of 1862.
	III	Security from robbers ...	Rep., XVII of 1862.
	IV	Revenue Board	Rep., XLIV of 1850.
	V	Mint ...	Rep., XXIII of 1870.
	VI	Ferries: Police	Rep. in part, XVI of 1874; XII of 1876; locally, Ben. Act I of 1866; Printed, N.-W.P. Code, p. 62.
	VII	Abduction ...	Rep., XVII of 1862.
	VIII	Patni taluqs, Ben. and Midnápur	Rep. in part, XXV of 1850; X of 1859; XVI of 1874; Ben. Act VIII of 1865.
	IX	Special appeals, &c. . .	Rep., X of 1861.
	X	Salt, B. B. and O. includ. Kat. ...	Rep., VIII of 1875.
	XI	Silver coinage ...	Rep., VIII of 1868.
1820	I	Sales of taluqs for arrears of rent, Ben. and Midn.	
	II	Offences in Chandernagore and Chinsurah.	Rep., XVI of 1874.
	III	Pressing coolies ...	Rep., XXIX of 1871.
	IV	Execution of certain military sentences.	Rep., XVII of 1862.
	V	Duty on Tobacco ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1820	VI	Repealing Reg. XLV of 1803 in part.	Rep., VIII of 1868.
	VII	Dharná ..	Rep., XVII of 1862.
1821	I	Special Commission, Ceded and Conq. Provs.	Rep., VIII of 1868.
	II	Civil Procedure ...	Rep., X of 1861.
	III	Criminal jurisdiction: Chaukídárs	Rep. XVII of 1862.
	IV	Magistrates ...	Rep., in part, XII of 1873; XVI of 1874; XII of 1876; locally, XIX of 1873.
	V	Rupees ...	Rep., VIII of 1868.
1822	I	Amending Reg. XLIX of 1793, &c.	Rep., XVII of 1862.
	II	Customs officers ...	Rep., XXIX of 1871.
	III	Board of Revenue .	Rep. in part, XVI of 1874; locally, XIX of 1873.
	IV	Criminal Procedure ...	Rep., XVII of 1862.
	V	Amending Reg. IX of 1808 ...	Rep., VIII of 1868.
	VI	Court of Wards, Benares ...	Rep., XIX of 1873.
	VII	Settlement, Ced. and Conq. Provs, Katák.	Rep. in part, XXV of 1837; X of 1859; XX of 1865; XVI of 1874; XII of 1876; locally, XIX of 1873; in part, Reg. IX of 1833.
	VIII	Criminal Procedure: Venue	Rep., XVII of 1862.
	IX	Aliens ...	Rep., I of 1849.
	X	Gáro Hillmen ...	Rep., XXII of 1869.
	XI	Sale of land for arrears of revenue	Rep. in part, XII of 1841; locally, XIX of 1873; Printed, N.-W. P. Code, p. 67.
1823	I	Amending Reg. I of 1821 ...	Rep., VIII of 1868.
	II	Suppression of affrays ...	Rep., XVII of 1862.
	III	Printing Presses ...	Rep., XI of 1835.
	IV	Criminal Procedure ...	Rep., XVII of 1862.
	V	Customs ...	Rep., VIII of 1868.
	VI	Indigo suits, Bengal ...	Rep. in part, X of 1836; VII of 1870; XVI of 1874; XII of 1876; Printed, N.-W. P. Code, p. 68.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1823	VII	Loans to Covenanted Civil Servants.	Rep. in part, XVI of 1874. Printed, N.-W. P. Code, p. 73.
1824	I	Acquisition of land for public purposes.	Rep., VIII of 1868.
	II	Farakhábád rupee ...	Rep., VIII of 1868.
	III	Jurisdiction of Registrar ...	Rep., X of 1861.
	IV	Registrar of Deeds ...	Rep., XVI of 1864.
	V	Extending Reg. VI of 1823 ...	Rep., XV of 1874.
	VI	Criminal Procedure ...	Rep., XVII of 1862.
	VII	Manufacture and sale of opium ...	Rep. in part, XXI of 1856; Residue rep., XIII of 1857.
	VIII	River tolls, Bengal ...	Rep., XII of 1873.
	IX	Settlement, Conq. Provs. and Bandelkhand.	Rep. in part, VIII of 1868; Residue rep., XIX of 1873.
	X	Pardon of accomplices ...	Rep., XVII of 1862.
	XI	Local investigations ...	Rep., XXIX of 1871.
	XII	Penalty on revenue defaulters ...	Rep., Reg. VII of 1830.
	XIII	Sadr Ámíns ...	Rep., X of 1861.
	XIV	Summary Rent suits ...	Rep., X of 1859.
	XV	Forcible dispossession	Rep., IV of 1840.
	XVI	Stamp-duties ...	Rep., X of 1829.
1825	I	Criminal Procedure ...	Rep., XVII of 1862.
	II	Reviews and Special Appeals ...	Rep., X of 1861.
	III	Sentences of Courts of Circuit ...	Rep., Reg. XVI of 1825.
	IV	Security for keeping peace and for good behaviour.	Rep., XVII of 1862.
	V	Union of powers of Judge and Collector.	Rep., VIII of 1868.
	VI	Passage of troops ...	Rep. in part, XII of 1876. Printed, N.-W. P. Code, p. 75.
	VII	Execution of decrees ...	Rep., XVI of 1874.
	VIII	Native officer: false charges ...	Rep., XXIX of 1871.
	IX	Extending Reg. VII of 1822: leases by Revenue authority.	Rep. in part, XX of 1865; locally, XIX of 1873.
	X	Commercial Residents ...	Rep., VIII of 1868.
	XI	Alluvion and diluvion ...	Printed, N.-W. P. Code, p. 77.
	XII	Criminal Procedure ...	Rep., XVII of 1862.
	XIII	Kánúngos ...	Rep. locally, XIX of 1873.
	XIV	Lákhiráj tenures ...	Rep. locally, XIX of 1873; in part, XII of 1873; XVI of 1874.
	XV	Customs duties and drawbacks ...	Rep., XVI of 1874.
	XVI	Sentences by Courts of Circuit ...	Rep., XVII of 1862.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1825	XVII	Gorakhpur Zila ...	Rep., Reg. I of 1829, s. 5.
	XVIII	Chinsurah .	Rep., XII of 1876.
	XIX	Názim of Bengal ...	Rep., XXVII of 1854.
	XX	Courts Martial and Military Courts of Requests.	Rep. in part, XI of 1841; XVI of 1874. Printed, N.-W. P. Code, p. 79.
	XXI	Dehra Dún ...	Rep., XV of 1874.
1826	I	Provincial Courts of Appeal ...	Rep., VIII of 1868.
	II	Settlement, Ceded Provinces ...	Rep., VIII of 1868.
	III	Prisoners in Civil Jails ...	Rep. locally, Bengal Act II of 1864; Rep. elsewhere, XXVI of 1870.
	IV	Special Commissions .	Rep., VIII of 1868.
	V	Pargana of Gobardhan	Rep., XV of 1874.
	VI	Fathipur Zila	Rep., XV of 1874.
	VII	Benares Mint	Rep., VIII of 1868.
	VIII	Contraband opium	Rep., XXI of 1856.
	IX	Board of Customs ..	Rep., XXIX of 1871.
	X	Salt .	Rep, VIII of 1875.
	XI	Native Law officers	Rep., XI of 1864.
	XII	Stamps, Calcutta	Rep., XXXVI of 1860.
1827	I	Criminal law, Bhágalpur ...	Rep., XXIX of 1871.
	II	Criminal trials, Bareli ...	Rep., VIII of 1868.
	III	Extortion by Native officers ...	Rep. in part, XI of 1864; XVI of 1874; XII of 1876; Printed, N.-W. P. Code, p. 83.
	IV	Sadr Amíns .	Rep., X of 1861.
	V	Management of estates under attachment.	Rep. in part, XVI of 1874; Printed, N.-W.P. Code, p. 83.
1828	I	Commutation of sentences of certain convicts.	Rep., XVII of 1862.
	II	Rescinding parts of Reg. I of 1799	Rep., VIII of 1868.
	III	Special Commissioners ..	Rep. locally, XIX of 1873; in part, XII of 1873; XVI of 1874; XII of 1876.
	IV	Power of Collectors in making or revising settlements.	Rep. in part, XVI of 1874, XII of 1876; Reg. IX of 1833, s. 5; locally, XIX of 1873.
	V	Awards of Military Courts	Rep., XI of 1841.
	VI	Explaining Reg. II of 1823 .	Rep., XVII of 1862.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1828	VII	Rájá of Benares ...	Printed, N.-W. P. Code, p. 84.
	VIII	Magistrates' powers ...	Rep. XVII of 1862.
	IX	Pauper Appeals ...	Rep., XXIX of 1871.
1829	I	Board of Revenue: Administration of justice.	Rep. in part, XVI of 1874; Reg. I of 1830; VI of 1831, s. 8; Reg. X of 1831, s. 4; locally, XIX of 1873.
	II	Orders of Magistrates under Reg. XV of 1824.	Rep., IV of 1840.
	III	Sadr Díwání and Nizámat Adálat	Rep., XXIX of 1871.
	IV	Appeals under Reg. III of 1828...	Rep., XII of 1870.
	V	Repealing in part Regs. X of 1817 and XXI of 1825.	Rep., XV of 1874.
	VI	Powers of Magistrates ...	Rep., XVII of 1862.
	VII	Statements by civil and criminal authorities.	Rep., XVII of 1862.
	VIII	Amending Regs. V of 1809 and I of 1822.	Rep., I of 1849.
	IX	Commercial Agents ...	Rep., VIII of 1868.
	X	Stamps ...	Rep., XXXVI of 1860.
	XI	Embankments ...	Rep., XII of 1876.
	XII	Modifying Reg. XII of 1825 ...	Rep., XVII of 1862.
	XIII	Legal Remembrancer ...	Rep., VIII of 1868.
	XIV	Security from foreign litigants ...	Rep., X of 1861.
	XV	Assessment of Customs duties ...	Rep., XVI of 1874.
	XVI	Salt-duty ...	Rep., XIV of 1843.
	XVII	Satí ...	Rep. in part, XVII of 1862; Printed, N.-W. P. Code, p. 91.
	XVIII	Repealing Reg. IV of 1829, s. 3...	Rep., VIII of 1868.
1830	I	Repealing Reg. I of 1829 in part...	Rep., VIII of 1868.
	II	Foreign trade ...	Rep., XXIX of 1871.
	III	Customs duties ...	Rep., XVI of 1874.
	IV	Explaining Reg. I of 1829, s. 3...	Rep., XVII of 1862.
	V	Indigo contracts ...	Rep. in part, XVI of 1835; III of 1857; VIII of 1868; Printed, N.-W. P. Code, p. 92.
	VI	Subsistence-allowance of debtors...	Rep., X of 1861.
	VII	Interest on arrears of revenue ...	Rep., XII of 1841.
	VIII	Inquiries by Magistrates ...	Rep., XVII of 1862.
1831	I	Repealing Reg. XVI of 1825, s. 3, cl. 2.	Rep., VIII of 1868.
	II	Legalizing certain trials ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1831	III	Copper coinage . .	Rep., VIII of 1868.
	IV	Amending Straits Reg. V of 1830	Rep, XIV of 1851.
	V	Munsifs and Sadr Ámíns and Principal Sadr Ámíns.	Rep., XVI of 1868.
	VI	Appellate Judges at Allahábád. .	Rep. in part, XVII of 1862; VIII of 1868; XVI of 1874; Printed, N.-W. P. Code, p. 94.
	VII	Jail deliveries ...	Rep., VIII of 1868.
	VIII	Summary suits for arrears of rent	Rep. locally, X of 1859; Printed, N.-W P. Code, p. 96.
	IX	Sadr Díwání and Nizámat Adálat	Rep., VIII of 1868.
	X	Revenue Board, North-Western Provinces.	Rep. locally, XIX of 1873.
	XI	Police powers of Tahsíldárs, Ced. and Conq. P.	Rep in part, XVI of 1854; XVI of 1874; XII of 1876; Printed, N.-W. P. Code, p. 100.
1832	I	Bájí Ráo's jágír ...	Rep., IX of 1852.
	II	Criminal Procedure ...	Rep., VIII of 1868.
	III	Slavery ...	Rep., VIII of 1868.
	IV	Explaining Reg. X of 1819, s. 41	Rep., VIII of 1875.
	V	Delhi territory ...	Rep., XII of 1876.
	VI	Native Assessors ...	Rep., XVI of 1874.
	VII	Modifying Reg. V of 1831 .	Rep., VI of 1871.
	VIII	Repealing Reg. XIV of 1814 ...	Rep., XV of 1874.
1833	I	Board of Revenue, Allahábád ...	Rep, VIII of 1875.
	II	Provincial Courts of Appeal . .	Rep., VIII of 1868.
	III	Registry of Imports and exports, Straits.	Rep. in part, XXII of 1855.
	IV	Convict labourers ...	Rep. locally, XXVI of 1870.
	V	District of Dháká ...	Rep., XV of 1874.
	VI	Customs duties . .	Rep., XVI of 1874.
	VII	Rupees: unit of weight ...	Rep., VIII of 1868.
	VIII	Additional Judges ..	Rep., VI of 1871.
	IX	Settlement-officers, Revenue, Malikána.	Rep. locally, XIX of 1873; in part, X of 1873; XVI of 1871; Printed, N.-W. P. Code, p. 101.
	X	Sale of spirits of European manufacture (Straits).	Rep., XIV of 1851.
	XI	Pawnbrokers' shops (Straits) ...	Rep., XL of 1850.
	XII	Pleaders ..	Rep., I of 1846.

Year.	Number.	Subject-matter.	How repealed or otherwise disposed of.
1833	XIII	Zilas of Ramghar, Jungle Maháls and Midnápur.	Rep., XII of 1876.
1834	I	Town-duties, Calcutta ...	Rep , VIII of 1868.
	II	Abolition of corporal punishment	Rep. in part, XVII of 1862; Residue rep. locally, XXVI of 1870; Rep. in part, locally, Bengal Act II of 1864.

BENGAL SECRETARIAT LIBRARY

THE

NORTH-WESTERN PROVINCES CODE.

PART I:

THE BENGAL REGULATIONS IN FORCE IN THE NORTH-WESTERN PROVINCES.

REGULATION XXXVIII OF 1793.

Passed on the 1st of May 1793.

A Regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June 1787, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue, lending money to zamíndárs, independent taluqdárs, or other actual proprietors of land, or dependent taluqdárs, or farmers of land holding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties; and for re-enacting, with alterations, the existing rules prohibiting Europeans of any description holding possession of lands that may be mortgaged to them, or purchasing or renting lands for erecting houses or buildings, for carrying on manufactures or other purposes, without the sanction of the Governor General in Council.[a]

Preamble.

1. AT an early period after the establishment of the British Government in this country, the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money

[a] Declared to apply to the whole of the N.-W. Provinces except the Scheduled Districts, Act No. XV of 1874.

to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise, had they been permitted to engage in such transactions with individuals subject to their official control and authority. This rule was incorporated with the Judicial Regulations passed on the 5th July 1781 and has since continued in force. From a regard to the prejudices of the Natives, and with a view to promote their ease and happiness, and to obviate the evils that would necessarily have resulted from allowing any persons, not amenable to the provincial Courts of Judicature in common with the Natives, to purchase or rent estates without restriction or limitation, or to hold any land whatever, excepting for the erection of dwelling-houses, or buildings for manufactures or other commercial purposes, it was likewise early made a rule, that no European should purchase or hold land out of the limits of Calcutta without the sanction of Government.[a] This rule was included in the Revenue Regulations passed on the 8th June 1787, and has since remained in force. The rules above-mentioned are hereby re-enacted with modifications.

Covenanted servants not to lend money to proprietors, &c., of land.

2. The Judges and Magistrates of the Zila Courts and their assistants, or other officers being covenanted servants of the Company, and the collectors of the revenue and their assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent taluqdár, or under-farmer or raiyat, or their sureties, and all such loans as have been made in opposition to the repeated prohibitions of Government, or which may be hereafter made, are declared not recoverable in any Court of Judicature.

REGULATION I OF 1795.

Passed on the 27th of March 1795.

A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares; for the more general restoration of the ancient zamíndárs; and for extending to the Province of Benares the rules prescribed in Regulation XLI. 1793.

Preamble.

1. THE Governor General in Council having determined, with the concurrence of the Rájá of Benares, to introduce into that Province, as far as local circumstances will admit, the same system of interior administration as has been established in the Provinces of Bengal, Bihár and Orissa, and the

[a] So much of this section as relates to Europeans purchasing or holding land is repealed by Act No VIII of 1868.

limitation of the annual revenue payable from the lands forming an essential part of that system, as stated in the preamble to Regulation II. 1793, the following rules have been enacted.

Origin and progress of assessment of land-revenue in Benares.

2. On the expiration of the year 1195 Faslí, the Governor General in Council instructed the Resident to make the settlement of the revenue for the ensuing year 1196 under his own immediate control. The Resident accordingly completed the settlement, by granting leases for the term of one year to certain ámils, and for five years to others, by which they bound themselves to pay a specific jama or assessment.

But the Governor General in Council being desirous of extending to the Province of Benares from the beginning of the year 1197, as far as circumstances might admit, the principles of the decennial settlement directed to be formed in the Provinces of Bengal, Bihár and Orissa, those principles were accordingly introduced in the districts of which the ámils in the preceding year had obtained leases for five years, by their consenting to the Resident's issuing pattás or leases, under their and his joint seals and signatures, for the remaining four years of the term of their own engagements, to all the taluqdárs, and to the village zamíndárs and farmers, by which it was stipulated that they should pay a certain fixed assessment, the amount of which should be received by the ámils, and accounted for by them to Government; and in the districts, the leases of which had been granted for one year only, and had consequently expired, by the issuing of pattás to the taluqdárs, and the village-zamíndárs and farmers, under the signature of the Resident and the Rájá, fixing the revenue to be in like manner paid by them through the ámils for the term of ten years.

The particulars of these arrangements were detailed in the reports on the said settlements for one year, and for four and ten years, made to the Governor General in Council, by the Resident, on the 26th of April, the 30th of November, and the 26th of December 1789, and the 25th of November 1790, and in the papers and accounts therein referred to; and on a consideration of them, the Governor General in Council, on the 11th of February 1791, approved of the said quartennial and decennial settlements with the taluqdárs, village-zamíndárs, and farmers, and ordered "that the four years' pattás be confirmed for the ensuing six, so as to reduce the whole to a ten years' settlement, and that assurances be given to the pattá-holders, that as long as they continue to pay their revenue stipulated in the last year of the increase, as specified in their several pattás, they shall not be liable to any further demand during their lives."

This order has been repeatedly notified to the parties whom it concerned, who, with the exception of the pattá-holders in a few parganas, and of certain

individual zamíndárs and farmers in others, have, by the performance of the conditions required of them, become entitled to hold their lands at a fixed assessment during their lives, as specified in the said order.

Revenue assessed on lands included in pattás, conditions of which have been performed, fixed in perpetuity.

The Governor General in Council has now further resolved, that the revenue stipulated to be paid on account of the lands included in the quartennial and decennial pattás, the conditions of which have been performed, whether held by zamíndárs or farmers, shall be fixed in perpetuity, and that the person or persons now holding, or who may hereafter become entitled under the Regulations to succeed to, such pattás, shall not be liable to any additional payment beyond the highest annual jama specified in such pattás.

That this resolution may be rendered more immediately and generally known, the Resident is to notify it to the parties interested by a proclamation to the following effect.

Proclamation. Revenue assessed on lands, agreeably to pattás granted under rules for quartennial and decennial settlements, declared fixed in perpetuity.

3. *First.*—"On the 11th February 1791, the Governor General in Council signified his approbation and confirmation of the quartennial and decennial settlements, formed in the Faslí year 1197 (1789-90), throughout the four sarkárs comprised in the Province of Benares, and directed in respect to the pattás for four years, that the amount of the jama payable thereby in the fourth year should be continued for the next six years, so as to place the quartennial pattás on the same footing as the pattás granted for ten years.

"The Governor General in Council now declares that the jama payable according to the quartennial and decennial pattás shall remain fixed for ever, so that no sum exceeding the amount specified as the highest annual jama payable according to the said pattás shall ever be required of those pattádárs, or holders of pattás, who have hitherto paid up their revenue and observed all the other conditions specified in their pattás, nor of those who may hereafter become entitled to hold or succeed to such pattás, so long as they shall continue to discharge the amount, and to perform the conditions therein stipulated.

Reservations under which above declarations are made.

Second.—"The above declarations are made with the following reservations.

Third.—"The holders of the pattás are to be considered as bound to conform to all regulations regarding them, the preservation of the rights of the pattídárs, or sharers in estates, the raiyats, or the administration of justice, which have been or may be passed by the Governor General in Council.

Rule regarding succession to zamíndárí.

Fourth.—"The succession to zamíndárís is to take place according to the established laws, rules and customs of the country, as provided for in the Regulations passed, or which may be enacted, for the Province of Benares.

Cases in which zamíndár dispossessed before 1st July 1775.

Fifth.—"In the event of the death of a farmer holding a pattá for lands, the zamíndár of which was dispossessed previous to the first July 1775, the date of the cession of the Province of Benares to the Company, or of the pattá

of any such farmer becoming otherwise void, it has been determined, with the concurrence of the Rájá of Benares, that such zamíndár, or his heir or heirs, shall be restored to the estate, provided he or they shall agree to pay the fixed jama assessed on the lands agreeably to such pattá, and to conform to all regulations for the collection of the revenue, the administration of justice, or other matters.

shall be restored to his estate, on avoidance of pattá granted for it to farmer.

"In such case, the estate shall be made over to him or them, in preference to its being leased to a new farmer or to the heir of the last pattá-holder.

Sixth.—"According to the well-known rule prevailing in the Province, those zamíndárs who have had possession of their estates since the first of July 1775, but who were nevertheless excluded at the forming of the permanent settlement, may recover possession of their estates from the farmers who may hold pattás for, and be in the actual management of, them, by proving their intermediate possession in the Court of Díwání Adálat.

Cases in which zamíndárs in possession of estates since 1st July 1775, but which have been leased to farmers, may recover possession from such farmers.

"The Courts of Díwání Adálat are accordingly to decree the restoration of any such zamíndár so claiming, on proof being made by him of such intermediate possession; but every such decree is to provide for such zamíndár's previously indemnifying the farmer for the loss which he may prove to the satisfaction of the Court to have sustained in consequence of his having held the lands under the pattá of Government; and the Court is accordingly to inquire into and decide upon such loss, and to cause the amount to be made good to the farmer, before the zamíndár is reinstated."

REGULATION XV OF 1795.

Passed on the 27th of March 1795.

A Regulation for extending to the Province of Benares Regulation XVI. 1793, entitled "A Regulation for referring Suits to Arbitration, and submitting certain cases to the decision of the Názim," with the exception of section 10; and for referring certain cases to the decision of the Rájá of Benares.

1. PREVIOUS to the establishment of Courts of Justice in the Province of Benares, individuals in general were under the necessity of having recourse to arbitration for the adjustment of the differences occasionally arising between them in respect to matters of property; and the same mode of adjustment has since been prevalent in the Province, the parties in suits before the Courts often agreeing to submit to the award of a certain number of their neighbours or other persons, and the award, when confirmed by the Court, becoming a decree of the Court.

The Governor General in Council being desirous to promote the reference of disputes of certain descriptions to arbitration, and having deemed it proper to submit certain cases to the decision of the Rájá, the following rules have been enacted.

2. [*Repealed by Act No. X of 1861.*]

Cases to be referred to Rájá

3. *First.*—In the event of any complaints being preferred to any Zila Court, relative to undue exactions of revenue, or any breach of agreement in respect to pattás, or the resumption of krishnárpan, or other description of lands exempted from the payment of revenue, in the jágír maháls of Badhoi or of Khera Mangror, or in the Rájá's hereditary zamíndárí of Gangápur, the complaints are not to be taken cognizance of in the Courts of Justice, but the parties are to be desired to make application to the Rájá or to his díwán; and in case of their not obtaining justice, they are to have recourse to the Collector, who will proceed to bring such causes to a just and equitable termination, in the manner stated in the under-specified article of an agreement concluded by the Resident with Rájá Mahipnarain, under date the 27th of October 1794.

An option however is reserved to the persons deeming themselves injured, to prefer their applications for redress in the first instance to the Collector, who in all cases, by reference to, and communication with, the Rájá and his officers, is to cause substantial justice to be rendered to the parties.

Article of agreement.

Second.—Article third of an agreement concluded by the Resident at Benares with Rájá Mahipnarain, under date the 27th of October 1794. "In case of complaints relative to revenue-causes or charity-ground, &c., being preferred to the huzúr (*i. e.*, the English Government) by any parties residing within the jágír and altamgá, &c., the personal or private lands of Rájá Mahipnarain Singh, the inquiry thereinto shall be made in like manner as such cases were amicably conducted between Mr. Duncan and the Rájá; that is, that since the gentleman holding the station of Collector will have more concern and connection with such matters than the other gentlemen, the rule shall be, that with the privity and ascertainment of the said Collector (who is to have regard to the honour and dignity of the said Rájá), such causes are to be settled through the channel of the said Rájá, or of the officers of the said Rájá's kachahrí; it being at the same time understood and provided, that as it is a duty incumbent on the Hon'ble Company's Government to distribute and ensure the attainment of justice to all the inhabitants of Benares, should it so happen, that after referring such complaints to the Rájá or to his officers in the kachahrí, the contentment of the parties complaining and aggrieved shall not be obtained, the Rájá shall, relative to the adjustment of such causes, listen to and approve of the suggestions and advice of the Collector, in like manner as hath been practised in the time of Mr. Duncan; and it is also

incumbent on the said Collector, in all proper and just cases, to show the utmost attention possible to the Rájá's accommodation, and to hold in view the maintenance of his honour and dignity, such being entirely consistent with the wishes of Government; and if (which God forbid) any such subject should arise as cannot be settled between the said Collector and the Rájá aforesaid, the decision in such case shall depend on the Governor General in Council."

REGULATION XXVII OF 1795.

Passed on the 27th of March 1795.

A Regulation declaratory of certain reservations made by Government, and of rights preserved to the proprietors of landed estates, under the permanent settlement of the land-revenue made in the Province of Benares; for allowing of the transfer or division of entire estates, or portions of estates, and prescribing rules for apportioning the fixed jama on the several shares of estates which may be divided, or portions of estates which may be transferred; and for continuing the patwárís in the discharge of their ancient functions.

Preamble.

1. REGULATIONS I. and II. 1795, contain the rules according to which the settlement of the land-revenue in the Province of Benares made for one year, and the quartennial and decennial settlements, were concluded.

By the first-mentioned Regulation, the decennial settlement has been declared permanent, and for the information and guidance of the taluqdárs, zamíndárs and other actual proprietors of land, and all persons whomsoever, the following further rules respecting the permanent settlement are enacted.

Jama hereafter agreed to by proprietors whose lands are held amánf, or let in farm, declared fixed for ever.

2. As the lands of some few zamíndárs and other actual proprietors of land may have been continued amání or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations for the quartennial and decennial settlements, the Governor General in Council notifies to the taluqdárs, zamíndárs and other actual proprietors of land whose lands are held amání, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment, but that they and their heirs and lawful successors shall be permitted to hold their respective estates at such assessment for ever; and he declares to the taluqdárs, zamíndárs and other actual proprietors of land whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the

period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their leases, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, or in the event of any such farmer or farmers forfeiting his or their leases by falling in arrear, or otherwise, such proprietors of land shall be reinstated on their agreeing to the payment of the assessment which may be required of them, or (according to the nature of the case) to the conditions with respect to the arrear that may be due, as specified in clause first, section 18, Regulation VI. 1795,[a] and no alteration shall afterwards be made in the said fixed annual assessment; but such proprietors of land, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.

Jama at which Government lands may be transferred to individuals, fixed for ever

3. In the event of the proprietary right in lands that are or may become the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

Proprietors expected to improve their estates.

4. *First.*—The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment, in consequence of the improvement of their respective estates.

Conduct to be observed by proprietors towards their pattídárs, under-renters and raiyats.

Second.—To discharge the revenue at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their pattídárs, under-renters and raiyats, are duties at all times indispensably required by Government from the proprietors from whom the revenue is immediately receivable: and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

The Governor General in Council therefore expects, that the aforesaid proprietors of land will not only act in this manner themselves towards their pattídárs, under-renters and raiyats, but also enjoin the strictest adherence to the

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[a] Repealed by Act No XIX of 1873. The clause referred to is as follows.—

18 *First.*—Where arrears shall be due by farmers near the close of the year, the recovery of which, either through themselves or their sureties, shall not have been effected by its expiration, the Collector, with the sanction of the Board of Revenue, is to have recourse in the first instance, to the ancient zamíndárs of the village or taluqa in question; who on paying up the farmer's balance, either immediately, or on finding security to pay it by instalments in the course of the ensuing year shall be reinstated in their zamíndárí

same principles in the persons whom they may appoint to collect the rents from them, in whatever instances there may be occasion for such delegation of trust.

Government to enact Regulations for welfare of cultivators.

5. *First.*—It being the duty of the Ruling Power to protect all classes of people, and more particularly those who from situation are most helpless, the Governor General in Council, whenever he may deem it proper, will enact such Regulations as he may think necessary for the protection and welfare of the pattídárs, under-renters, raiyats and other cultivators of the soil; and no taluqdár, zamíndár, or other proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they may have respectively agreed to pay.

Internal duties to belong to Government.

Second.—The Governor General in Council having, on the 26th December 1787, directed the saiyar collections to be abolished, and a subsequent settlement having been made with the proprietors of land, exclusive of the articles of collection given up by that abolition, he now declares, that if he shall hereafter think it proper to re-establish the saiyar collections or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

Jama assessed on alienated lands held under invalid titles.

Third.—The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles. The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

Police-lands eventually resumable by Government.

Fourth.—The jama of those zamíndárs, taluqdárs and other actual proprietors of land, which is declared fixed in the foregoing Articles, is to be considered entirely unconnected with, and exclusive of, the produce of any lands set apart for the maintenance of pahrís, pásís, goraits or other description of watchmen, employed in services of Police; and the Governor General in Council reserves to himself the option of resuming the whole or part of the produce of such lands, should he at any time hereafter think fit to exonerate the proprietors of the land from being responsible for the peace, and to appoint officers on the part of Government to perform the duties relating to the Police now required from them. The Governor General in Council, however, declares, that the produce of lands which may in that case be resumed, will be appropriated to no other purpose but that of defraying the expense of the Police, or providing a maintenance for the pahrís, pásís, goraits or other description of watchmen employed therein.

Estates of dispossessed proprietors not liable to sale for arrears

Fifth.—Nothing in this or any other Regulation shall be construed to render the lands of which there are dispossessed proprietors liable to sale for any arrears which have accrued, or may accrue, on the jama that has been or

of assessment accruing whilst they are deprived of management of them.

may be assessed upon their lands, under the Regulations for the quartennial and decennial settlements, provided that such arrears have accrued, or may accrue, during the time that they have been, or may be, dispossessed of the management of their lands.

It is to be understood however that whenever all or any of the descriptions of dispossessed landholders shall be permitted to assume or retain the management of their lands, in consequence of the ground of their dispossession no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the jama that has been or may be assessed upon them in perpetuity, from the time that the management may devolve upon them.

Proprietors declared privileged to transfer lands without sanction of Government.

6. That no doubt may be entertained, whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the taluqdárs, zamíndárs and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary right in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer; and that all such transfers will be held valid, provided that they be conformable to the Muhammadan or Hindú laws (according as the religious persuasions of the party or parties making such transfer may render the validity of it determinable by the former or the latter code), and that they be not repugnant to any Regulations now in force, which have been passed by the British Administrations, or to any Regulations that they may hereafter enact.

Proviso.

Rules for apportioning jama in case of sale, transfer or partition.

7.[a] From the limitation of the public demand upon the lands, the neat income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property, for the assessment on which a distinct engagement has been or may be entered into between Government and the proprietor, or that may be separately assessed, although included in one engagement, with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jama assessed upon it (which, agreeably to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management.

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be appor-

[a] So much of this section as relates to the adjustment of the jama on lands sold in satisfaction of decrees was repealed by Act No. IV of 1846, section 1.

tioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one or in two or more lots, or of its being joint-property, and a division of it being made among the proprietors; otherwise from the want of a declared rule for estimating the proportion of the fixed jama with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained.

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it in any of the cases above specified to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the collector of the revenue, or such other officer as Government may in future prescribe, in order that the fixed jama assessed upon the whole estate may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the jama charged thereon, may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land.

And the Governor General in Council declares, that if the parties to such transfers or divisions shall omit to notify them to the collector of the revenue of the Province, or such other officers as may be hereafter prescribed, for the purposes before mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no such transfer or division had ever taken place.

First.—In the event of the whole of the lands of a zamíndár, taluqdár or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations above-mentioned, being exposed to public sale by order of the Governor General in Council for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor

General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his, or her, or their heirs and lawful successors shall hold them at the jama at which they may be so purchased for ever.

Second.—When a portion of the lands of a taluqdár, zamíndár or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations before mentioned, shall be exposed to public sale by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce.

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce.

The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one lot, or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter enact; and the purchaser or purchasers of such lands, and his, or her, or their heirs or successors will be allowed to hold them at the jama at which they may be so purchased for ever; and the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his, or her, or their possession, will continue unalterable for ever.

Third.—When a taluqdár, zamíndár or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint-property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate, so transferred, shall be fixed at an amount which shall bear the same proportion to its actual produce, as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt; and the person or persons to whom such lands may be trans-

ferred, and his, or her, or their heirs and lawful successors shall hold them at the jama at which they may be transferred for ever; and where only a portion of such estate shall be transferred, the amount of the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

Fourth.—Whenever a division shall be made of lands the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed jama assessed upon the whole of the estate divided may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jama which may be so assessed upon them for ever.

Lands of ancient proprietors excluded under Regulation II. 1795, s. 12, not liable to be sold at public sale.

8. Nothing in this or any other Regulation passed previous to or on this date, shall be construed to authorize the public sale of the lands in any taluqdárí or zamíndárí, whilst the party or parties claiming the same, as the ancient proprietors, continue to stand excluded under the limitation specified in section 12, Regulation II. 1795;[a] or until, by the operation of the repeal of that limitation under section 3, Regulation I. 1795,[b] or in pursuance of the consequent provisions in section 18, Regulation VI. 1795,[c] or some other consonant rule made, or that shall hereafter be made, in consequence of the said repeal, such party or parties shall have been restored to the management of the revenue of his or their respective taluqdárís or zamíndárís.

9. [*Repealed by Regulation XII of 1817.*]

Definition of proprietor or actual proprietor of land.

10. For the sake of precision it is hereby declared, that wherever the term proprietor or actual proprietor of any taluq, zamíndárí, village or other land paying revenue to Government is or may be used in this or any other Regu-

[a] Repealed by Act No. XIX of 1873. The section referred to is as follows:—

12. A material deviation however was unavoidably made from these resolutions; for Rájá Mahipnarain at that time declining (although he subsequently acquiesced in the measure, as specified in Regulation I. 1795) to consent to the restoration of the numerous class of village-zamíndárs, who had been dispossessed and reduced to the situation of cultivating raiyats, during the administrations of the Rájás Balwant Singh and Cheit Singh, it became necessary to exclude from the benefit of the rights to be conferred by this decennial settlement, all those landholders who had been so dispossessed and reduced before the first of July, 1775 (1182 Faslí), the date of the final transfer of the sovereignty of Benares to the Company.

[b] See *supra*, p. 4

[c] Repealed by Act No. XIX of 1873.

lation extending to the Province of Benares, such term is to be considered as applying to the person or persons holding under each separate lease or pattá from Government (whether he or they possess the entire proprietary right in such lands, or shall be only the principal amongst other pattídárs, distinct or common), whose name or names standing inserted in such pattás, and who, having executed the counterpart kabúliyats, has or have thereby become immediately responsible to Government, as well for the payment of the revenue as for the performance of the other stipulations and conditions contained in the quartennial and decennial deeds of settlement; without however affecting or prejudicing the rights, distinct or common, of any pattídárs or sharers where any such shall exist, and which, in case of dispute with the pattidárs or holders of the pattás, are to be determined by the Courts of Adálat, according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice, and the laws, customs and usages of the district, as far as regards the parties in question.

REGULATION XLIV OF 1795.

Passed on the 28th of August 1795.

A Regulation for removing certain restrictions to the operation of the Hindú and Muhammadan Laws, with regard to the Inheritance of landed property subject to the payment of revenue to Government in the Province of Benares.

Preamble.

1. ON grounds similar to those stated in the preamble to Regulation XI. 1793, for removing certain restrictions to the operation of the Hindú and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government, in the Provinces of Bengal, Bihár and Orissa, the following rules have been enacted for the Province of Benares.

Descent of landed property after 1st July, 1794.

2. After the first day of the Faslí year 1204, if any taluqdár, zamíndár or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindú law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeéd to the shares to which they may be so entitled.

Estate how held on death of actual proprietor.

3. If any taluqdár, zamíndár or other actual proprietor of land shall die subsequent to the period specified in section 2 without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her

landed property is to devolve after his or her demise, and shall leave two or more heirs, who, by the Muhammadan or Hindú law (according as the parties may be of the former or latter persuasion), shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in that section, such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate.

If one or more, or all of the sharers, shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in Regulation XXV. 1793, and such sharer or sharers shall have the separate possession of such share or shares accordingly.

If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

Shares held separate how assessed.

4. It is to be understood that, if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public jama charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section 7, Regulation XXVII. 1795.[a]

Commencement and operation of Regulation.

5. Nothing contained in this Regulation is to be construed to entitle any person to a share of an estate which may be now held entire by any individual, or that may devolve entire to any individual prior to the beginning of the Faslí year 1204, in exclusion of the other heirs of the last proprietor, under the custom in virtue of which such individual may so hold or succeed to the whole of such estate, and for the future abolition of which this Regulation is enacted, but such person or persons are to be considered bound, in the cases specified in clause tenth, section 35, Regulation XXII. 1795,[b] by what they had acquiesced in.

Saving of bequests and transfers.

6. Nor to prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the Faslí year 1204, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper; provided that the bequest or transfer be not

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[a] See *supra*, p. 10.

[b] Repealed by Act No. VIII of 1868. The clause referred to is follows:—

Tenth.—In the event of one of the pattídárs, within the period limited for the general restoration of landholders in section 15 having contracted as a principal for the revenue with Government, and made to his pattídárs or sharers some allowance in consideration of their right in the estate, this situation is not to entitle them to prosecute for personal possession or management of any part of such estate, or other or superior rights to those in which they had acquiesced.

repugnant to any Regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindú or Muhammadan law; and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner as those laws and Regulations respectively do or may require.

REGULATION I OF 1798.

Passed on the 9th of January 1798.

A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.[a]

Preamble.

1. IT has been long a prevalent practice in the Province of Bihár to borrow money on the mortgage and conditional sale of landed property, under a stipulation that, if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute. This species of transfer has, in the above Province, been usually denominated bai-bil-wafa; and the same transaction is common in Bengal, under an instrument termed kat-kabála.

It doubtless exists also under deeds of the above or similar denominations, in Orissa and Benares: and since the promulgation of the rules respecting interest contained in Regulation XV. 1793,[b] it has become more prevalent; particularly in the Province of Bihár, wherein instances have occurred in which persons lending money on bai-bil-wafa, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, have denied the tender or evaded receiving payment of the money due to them within the period limited for the discharge of it.

In such cases, the proof of the tender falls on the borrower; and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate.

It is necessary therefore for the security of the borrower, in such transactions, that he should have the means of establishing before a Court of Judicature his having tendered, or being ready to pay, within the stipulated period, the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be readily ascertained whether the borrower was willing to redeem his property by the payment of the money lent upon it within the period agreed upon between the parties, or whether, from his having omitted to perform the con-

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[a] See sections 7 and 8, Regulation XVII. 1806. Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] Repealed by Act No. VIII of 1868.

ditions of such redemption, the sale is become absolute and the property included therein finally transferred to the lender.

For the above purpose, and for the prevention of other abuses in the transactions referred to, the Governor General in Council has passed the following rules, to be considered in force in the Provinces of Bengal, Bihár, Orissa and Benares, from the date of the receipt of this Regulation by the several Courts respectively.

Procedure for borrower of money on conditional sale of land who desires to redeem it by paying money lent.

2. In all instances of the loan of money on bai-bil-wafa, or on the conditional sale of landed property, as explained in the preamble to this Regulation, however denominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it, with any interest due thereon, within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender the amount due to him, taking such precautions as he may think necessary to establish such tender and payment, if evaded or denied, or without any tender to the lender, to deposit the amount due to him, on or before the stipulated date, in the Díwání Adálat of the city or zila in which the land may be situated; and the Judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date, and for what purpose, such deposit may have been made.

He shall also at the same time cause a written notice of such deposit to be delivered to the lender; and on the application of the latter, and his surrender of the conditional bill of sale, or showing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgment, to remain among the records of the Court.

That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows:—

When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of twelve per cent. per annum; or if interest be payable and no rate has been stipulated, with interest at the established rate of twelve per cent.; but if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession.

In either case, a deposit, made as above required, shall be considered to preserve to the borrower his full right of redemption; and if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section.

Provided however that if the borrower in any case shall deposit a less sum than above required, alleging that the sum so deposited is the total amount due

to the lender for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not however in such cases, be entitled to the recovery of his lands, until it be admitted or established that he has paid the full amount due from him.

When lender has possessed land, and adjustment of accounts is necessary, he is to account for proceeds of estate.

3. In all instances wherein the lender on a bai-bil-wafa, or similar conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and interest in Regulation XV. 1793,[a] as far as the same may be applicable to the nature of the case.

But such part of section 10 of the above Regulation as directs that the mortgages therein referred to are to be considered as cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being inapplicable to the conditional sales referred to in this Regulation, it is hereby declared not to apply thereto.

Tips not to be considered legal tender unless accepted by lender.

4. A típ for the repayment of money lent on the conditional sales referred to in this Regulation shall not be considered a legal tender, unless accepted as such by the lender; the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him.

Regulation not to alter contract between parties.

5. Nothing in this Regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers (illegal interest excepted), the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought before and determined by the Courts of Civil Justice.

REGULATION V OF 1799.

Passed on the 3rd of May 1799.

A regulation to limit the interference of the Zila *and City* Courts of Diwání Adálat in the execution of wills and administration to the estates of persons dying intestate.[b]

Preamble.

1. DOUBTS having been entertained to what extent, and in what manner,

[a] Repealed by Act No. VIII of 1868.

[b] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874. As to transfer of proceedings under this Regulation, see Act No. VI of 1871, sec. 27, *infra*.

the Judges of the Zila Courts of Díwání Adálat in the Provinces of Bengal, Bihár, Orissa and Benares, are authorized to interfere in cases wherein the inhabitants of the above Provinces may have left wills at their decease, and appointed executors to carry the same into effect, or may have died intestate, leaving an estate real or personal; with a view to remove all doubts on the authority of the Zila Courts in such cases, and to apply thereto, as far as possible, the principle that in suits regarding succession and inheritance the Muhammadan laws with respect to Muhammadans, and the Hindú laws with regard to Hindús, be the general rules for the guidance of the Judges, the Vice-President in Council has passed the following Regulation, to be considered in force from the period of its promulgation in the above Provinces respectively.

Estates of Hindús, Muhammadans and others, not being disqualified landholders, leaving wills.

2.[a] In all cases of a Hindú, Mussulman, or other person subject to the jurisdiction of the Zila Courts, having at his death left a will and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder, subject to the superintendence of the Court of Wards under any Regulation relative to the jurisdiction of the Court of Wards, the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the Judge of the Díwání Adálat or any other officer of Government, for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature.

Estates of persons dying intestate.

3.[b] In case of a Hindú, Mussulman, or other person subject to the jurisdiction of the Zila Courts, dying intestate, but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age and competent to take the possession and management of the estate, or if under age or incompetent, and not under the superintendence of the Court of Wards, his guardian, or nearest of kin, who by special appointment or by the law and usage of the country may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred, when they are to proceed thereupon according to the general Regulations.

If there be more heirs than one to

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common

[a] [b] Partially repealed by Act No. XL of 1858, sec. 1, *infra*.

estate of intestate.

manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir.

But if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time, that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs, who may, on investigation, be found entitled to succeed thereto.

In what cases Judge may appoint administrator for care and management of estate of intestate.

5.[a] In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

Security to be taken from, and allowances paid to, administrators.

6.[b] In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadr Díwání Adálat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.

[a, b] Modified by Reg. V of 1827, *infra*.

7. The Judges of the Zila Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property,[a] are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose.

Procedure in cases of persons dying intestate, leaving personal property to which there is no claimant.

Such advertisement to be published on the spot where the property was found, at the Díwání Adálat kachahrí of the zila, and, if ascertainable, at the dwelling-place of the deceased, or, if the deceased were an European, in the *Calcutta Gazette*; after which, should any person attend and satisfy the Judge of his title to the property, or to receive charge thereof as executor, administrator or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case is to be transmitted to the Governor General in Council for his orders.

8. Nothing in this Regulation is to be understood to limit or alter the jurisdiction of the Court of Wards in the appointment of managers or guardians for disqualified landholders, or in any case wherein a special power may be vested in the Court of Wards.

Saving of jurisdiction of Court of Wards.

REGULATION II OF 1800.

Passed on the 16th of January 1800.

A Regulation for laying open to public use the stone-quarries at Chunar, Gházípúr and Mirzápúr, in the Province of Benares, subject to a fixed duty.

1. THE stone-quarries at Chunár, Gházípúr and Mirzápúr, in the Province of Benares, have been hitherto worked for the exclusive use of Government, and either let in farm, under the provisions contained in sections 81 and 82 of Regulation XXII. 1795, or managed (since August 1797) by an agent, who disposed of the stones, at stated prices, chiefly in the city of Benares.

Preamble.

With a view to encourage the excavation of the quarries, and bring a greater quantity of stones to sale for the general convenience of builders and others, a notification was published, under date the 9th April 1799, that the stone-quarries in the Province of Benares had been laid open for public use, subject to a duty, the rates of which would be subsequently published for general information.

[a] See Act No. V of 1861, ss. 25-28.

In pursuance of this notification, and for the purpose of determining the rates of duty upon all stones quarried by individuals subsequent thereto, or which may be hereafter quarried under this Regulation, the following rules have been enacted by the Governor General in Council, to be considered in force, as far as they respect the rates of duty, from the 9th day of April last, and in all other respects from the period of their promulgation in the Province of Benares.

All persons permitted to quarry stones.

2. All persons are hereby declared at full liberty to excavate stones of every description from the quarries at Chunár, Gházípúr and Mirzápúr, subject to the provisions contained in the following sections of this Regulation.

Duty to be paid to Government previously to removal of stones.

3. On all stones excavated from the quarries specified in the preceding section a fixed duty shall be paid to Government, previously to the removal of the stones from the vicinity of the quarry where they may have been cut according to the under-mentioned rates, namely :—

First.—On the under-mentioned eight descriptions of stones, at whichever quarry excavated, the duty to be as follows :—

Descriptions of Stones.	*Rates of Duty.* Rs.	As.	P.	
Dhoká, or small stones of various dimensions, usually sold by the 100 maunds	2	4	0	per 100 maunds.
Kolhú, or sugar-cane mill-stones—				
First sort, called barhíyá ...	8	0	0	per stone.
Second sort, called sarhi ...	7	0	0	ditto.
Third sort, called kolhú bindra chul[a] ...	5	0	0	ditto.
Jántá, a species of hand-mill-stone	12	8	0	per 100 pieces.
Chakkí, ditto	6	4	0	ditto.
Sil, ditto	4	14	0	ditto.
Ditto, second sort, less than a foot in breadth ...	3	4	0	ditto.

Secondly.—On all other descriptions of stones the duty to be regulated by their solid contents in length, breadth and thickness, as follows :—

	Rs.	As.	P.	
Stones quarried at Chunár and Gházípúr, and not exceeding in their solid contents four cubic feet	0	2	8	per cubic foot.
Ditto ditto, above four and not exceeding five cubic feet	0	4	0	per ditto.
Ditto ditto, exceeding five cubic feet ...	0	5	0	ditto.
Stones quarried at Mirzápúr, of whatever dimensions	0	2	6	ditto.

[a] *Sic.* Quære Bindhyáchal, the name of a place about five miles from Mirzápur.

Statements of descriptions of stones, and duty on each, to be affixed in Collector's kachahrí in Native languages.

4. For the more full and ready information of stone-cutters and others, the Collector of Benares is directed to prepare, in the Persian and Hindústání languages, a detailed statement of the several descriptions of stones usually quarried at Chunár, Gházípúr and Mirzápúr, showing the amount of the duty upon each, calculated according to the rates prescribed in the preceding section; and to keep the same constantly affixed in his kachahrí, as well as in some conspicuous place at each of the quarries, under the inspection of the dároghas to be stationed at them respectively.

Duty to be paid into Collector's treasury, and rawána to be granted by him.

5. The duty specified in section 3 is to be paid into the treasury of the Collector of Benares; who, on receipt thereof (or in the event of the Collector's absence, his head assistant on the spot) is to grant a rawána, under his official seal and signature, directed to the dárogha of the station where the stones may have been quarried, specifying the exact quantity and descriptions of stones for which the duty may have been paid, and authorizing their removal from the quarry in consequence.

This rawána is to be delivered by the party receiving the same to the dárogha to whom it is addressed, and to be kept by the latter as his authority for allowing the removal of the stones therein specified.

Exact lists of stones in prescribed forms to be delivered on application for rawánas.

6. To enable the Collector to grant rawánas as above directed, the party applying for the same shall, with his application, and at the time of paying the duty, deliver an exact list of the stones which have been quarried and for which the rawána is desired, specifying the name of the quarry, the number and descriptions of the stones, and their weight, number of pieces, or solid contents (according as the duty may be payable upon either in conformity to section 3), with any other particulars contained in the detailed statements to be prepared and published by the Collector in pursuance of section 4, which statements are to be considered by all persons applying for rawánas as the prescribed forms for the lists herein required from them.

To facilitate the preparation of such lists, and to prevent inaccuracies which might delay the removal of the stones and adjustment of the duties thereupon, it is further hereby provided, that when any quantity of stones may have been quarried, and the quarrier, or any person in his behalf, or to whom he may have sold or otherwise transferred the same, shall be desirous of obtaining a rawána for their removal, the dárogha of the quarry, with whom a sufficient number of measures are to be stationed for this purpose, shall, on application, cause the stones for which the rawána may be desired to be accurately counted, weighed or measured (according as the duty may be payable on the number, weight or measurement) in the presence of the owner of the stones, or of such person as he may appoint, and the dárogha thereon shall attest the lists of stones to be delivered to the Collector, as well as cause the same to be

attested by the officer who actually counted, weighed or measured the stones, by subscribing thereto a certificate, under his signature, of the accuracy of the number, weight and measurement therein stated.

Measures for preventing fraudulent attempts to evade duty, and penalty for such attempts

7. The dároghas of the stone-quarries, on causing any stones to be measured in pursuance of the preceding section, are to affix some mark thereto, and shall also by some means mark the heaps of stones which may have been counted or weighed, so as to identify the whole of the stones included in the lists attested by them, and are to take such precautions as may be necessary to prevent any change of, or addition to, the stones so collected and examined, previous to the receipt of the Collector's rawána for their removal.

If in any instance there should appear room for suspicion that the stones counted, weighed or measured before the application for the rawána have been subsequently changed or added to, the dárogha is to cause the same to be recounted, weighed or measured in his presence; and in the event of its being ascertained that any fraudulent change or addition, for the purpose of evading the duty, has been made, the whole quantity of stones for the removal of any part of which such fraud may have been attempted will be liable to confiscation under the provisions contained in section 11 of this Regulation.

Rawánas to be returned monthly to Collector with report of quantity removed.

8. On the removal of the stones specified in the rawána, the dárogha is to endorse thereupon the date or dates of removal, with a certificate, under his signature, that the despatch has been made agreeably to the contents; and the rawánas so endorsed are to be returned at the end of each month to the Collector, with a report of the quantity of stones removed from each quarry within the month.

Dárogha to furnish chhor chitthís for each despatch of stones, free of additional duty.

The dárogha, with every despatch of stones, is also to furnish the person by whom they may be taken from the quarry with a chhor chiṭṭhí or pass, under his official seal and signature, specifying the number and descriptions of stones taken away, and directing all officers of the quarry, and others, to allow the same to pass without molestation.

No new duty however is to be levied upon such chhor chiṭṭhís (of which a regular record is to be kept by the dároghas, in such form as may be prescribed to them by the Collector); nor are the quarried stones herein referred to, to be liable, in any part of the Company's Provinces, to any other duty than that specified in section 3 of this Regulation.

9. [*Repealed by Act No. XVI of 1874.*]

Appointment, &c., of dároghas.

10. The Collector of Benares is to nominate, for the approbation of the Board of Revenue, the dároghas to be stationed at the several stone-quarries, and is to take from them the security prescribed in section 15, Regulation

III. 1794, the provisions in sections 15, 16, 17, 18, 19, 20 and 21[a] of which Regulation are hereby declared to extend to all descriptions of Native officers who may be employed under the present Regulation, and be entrusted with the receipt of money or the charge of accounts.

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[a] The sections referred to are as follows:—

15. The Collectors are to take security for the personal appearance of the tahsíldárs, sazáwals, ámíns [*díwáns*] sarrishtadárs, munshís, muharrirs and all Native officers entrusted with the receipt or payment of public money or the charge of public accounts, who now are, or may be hereafter, employed under them, in their capacity of Collectors of the revenue.

The surety is to bind himself to produce the officer for whom he may become security before the Collector, whenever his attendance may be required, until he shall be discharged from the public service, and shall have received a writing from the Collector, signifying that he has no demand upon him on the part of Government, either for money, papers, or accounts belonging to the public, that may have been committed to him or come into his possession in his official capacity; and further, that in the event of his not producing such officer, he will be responsible for all demands that the Collector may have upon him for public money, papers or accounts, and be liable to be proceeded against in every respect, in the same manner as the officer himself, had he been forthcoming.

When any such officer is removed or resigns, the Collector is to grant him an acquittal to the above effect, after he shall have delivered up all public papers, accounts or money, that may have been committed to his charge.

The Collectors may require such officers to give new sureties, in cases in which they may have ground to believe that the former sureties, whether admitted by themselves or their predecessors, are not responsible.

16. If a Collector shall have a claim, on the part of Government, on any of the Native officers described in the preceding section, for a balance of accounts, or money or papers belonging to Government, he is to require the payment of the money, or the delivery of the papers, by a writing under his official seal and signature, and the signature of his *díwán, or other* head Native officer of his daftar for the time being, specifying the amount of the money, or the particular papers required, and the date and place that may be fixed for the delivery of the money or papers. Collectors how to proceed to recover public money or accounts in possession of Native officers

If the officer shall not discharge the money or deliver up the papers by the limited time, the Collector is empowered to apprehend him, and convey him to the gaol of the Díwání Adálat of the zila, the Judge of which Court shall detain him in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers.

The Collector is authorized likewise to attach such part of the real or personal property belonging to the officer, as may be sufficient to make good the sum which may be due from him.

If his property shall be in another zila, he is to apply to the Collector of that zila, who shall cause it to be attached.

The Board of Revenue are empowered to order the property to be sold, under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue.

In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the Collector is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the vakíl of Government, and at the public expense, and the rules in Regulation XIV. 1793 [*repealed by Act No. XVI of* 1874], regarding suits so carried on by the Collectors, are to be held applicable to it.

17. If any such Native officer, who may have retained public money or papers in his possession, shall abscond or not be forthcoming, the Collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the zila; or if he shall have taken refuge in any other zila, and the Collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collectors how to proceed where officers abscond or are not forthcoming.

The Collector is to fix the allowances of the dároghas, and the necessary establishment of officers to act under them, subject to the confirmation of the Governor General in Council, to be obtained through the Board of Revenue; he is also to furnish the dároghas with such rules and orders as, from experience, may appear most effectual to prevent the removal of any stones from the quarries without payment of the prescribed duty.

Stones attempted to be removed without paying duty liable to seizure and confiscation,

11. Any stones which may be clandestinely or otherwise removed from the place of excavation, or place adjoining thereto where it may be usual to collect the stones when quarried, without paying the duty and obtaining the rawána required by this Regulation, shall be liable to immediate seizure and confiscation to Government, together with the cattle and carriages which may be used

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Collector is to apply to the Judge of the zila to request the Judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the zila from which he may have absconded.

Collector how to proceed in case of officer absconding without having adjusted his accounts, or omitting or refusing to attend for that purpose.

18. If a Collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by a writing to that effect, under the official seal and signature of the Collector, to be fixed up in his kachahrí, and at the place in the zila at which the officer may have last resided, the Collector is empowered to prepare the most accurate statement that he may be able of the money or papers in the possession of such officer, and proceed against the surety, upon his engagement, for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer; or he may cause the officer to be apprehended by his own authority under section 16, if he be within the limits of the zila, or if he shall have taken up his abode in any other zila, by application to the Judge, in the manner directed in section 17.

If it should afterwards appear, upon inquiry before the Court, that no part, or a portion only, of the sum demanded was due from him, or that the papers required were not in his possession, the Collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

Officers or sureties confined for demand of money when to be released.

19. If any such officer or his surety shall be confined on account of a claim for public money, and previous to the sale of his property, or supposing the Collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement, shall deny the justness of the whole or any part of the demand made upon him by the Collector, and find some responsible person who will become security that he will institute a suit in the Court in fifteen days against the Collector to try the demand, and to pay the sum that may be awarded against him, with costs and interest at the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the Court is to discharge the officer or surety, and proceed to the trial of the suit;

and if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded, and the property restored to the owner.

Native Officers or their sureties at liberty to sue Collector whilst in confinement.

20. If any such Native officer, or his surety, shall be committed to custody by the Collector, and shall not obtain his release in the mode specified in section 19, he shall nevertheless be at liberty, whilst in confinement, to sue the Collector by whom he may have been confined, should he deem the demand upon him unjust.

Collectors to appoint authorized vakíl of Court to defend suits.

21. The Collectors are to appoint one of the authorized vakíls of the Courts to defend any suits which may be instituted against them by any such Native officers or their heirs or sureties, under this Regulation; and all the rules in Regulation XIV. 1793 [*repealed by Act No. XVI of* 1874], regarding suits instituted against the Collector for sums demanded or received by him on behalf of Government, and which are not repealed by this Regulation, are to be considered applicable to such suits.

for the conveyance of such stones, and all other property seized therewith, which may in any wise have been used, or intended for use, in the illicit removal of the stones in question. together with carriages, &c.

As an encouragement to the officers of Government to do their duty in making such seizures, and to all other persons to give information by which the same may be made, the following rewards shall be paid by the Collector from the sale-produce of the stones and other property confiscated, as soon as the same shall have been disposed of by public sale in pursuance of the succeeding section, namely:—

If the seizure be made by the public officers stationed at the quarries without information from any other person, a moiety of the sale-produce shall be given to them, and be divided amongst them in such proportions as the Collector, on inquiry, may judge due to them respectively; or if the seizure be made by the public officers upon information from any other person or persons, a quarter of the sale-produce shall be given to the seizers, and another quarter to the informers, to be distributed by the Collector as above directed.

If any other person or persons than the officers stationed at the quarry shall both give the information and make the seizure, he or they shall be entitled to a full moiety of the sale-produce, without the participation of the officers of Government; who, on the contrary, shall be liable to dismission from office for their neglect, if the Collector, on inquiry, shall find them deserving of it; and if there be sufficient evidence of any collusion on their part, they shall be prosecuted criminally for a breach of trust.

But to prevent undue molestation to the stone-cutters or persons who may purchase stones from them at the quarries, it is hereby required and directed, that no obstruction be offered to the free passage of any stones, on suspicion of their not having paid the established duty, beyond certain limits round the quarries, to be fixed by the Collector, and within which it will be the duty of his officers to keep vigilant watch for the purpose of detecting and preventing any attempts to remove the stones without a regular pass from the dárogha.

Moreover, any seizure of stones without sufficient grounds to warrant suspicion of an attempt to remove the same clandestinely or to evade the duty, will subject the seizers (unless reparation be made as directed in the following section) to a prosecution in the Civil Courts for damages; and such Courts, on clear proof that the seizure was altogether unwarranted, and that due reparation has been refused, are required to adjudge full damages to the party injured, besides all costs of suit.

12. Whenever any seizure may be made under the preceding section, an immediate report thereof shall be transmitted by the dárogha of the quarry to Seizures to be immediately reported to

Collector

the Collector of Benares, with a circumstantial statement of all particulars relative thereto; and the Collector shall, as soon as possible, make such further inquiry as may be necessary, in the presence of the parties concerned if in attendance, or their authorized agents; after which, if it shall appear that the duty had been paid upon the stones seized, or that it was not intended to remove them from the quarry without payment of the prescribed duty, he shall cause them to be immediately released, and direct the party who seized them to make such reparation to the owner as may be adequate to the actual injury sustained by him, under penalty, for non-compliance, of being prosecuted in the Díwání Adálat for damages and costs, under the preceding section.

If on the contrary it shall clearly appear to the Collector that no duty has been paid on the stones seized, and that an attempt was made to remove them from the quarry without payment of the duty, he shall declare the same confiscated to Government, together with any cattle, carriages or other property seized therewith and liable to confiscation under the preceding section; and shall immediately advertise the same to be publicly sold at his kachahrí, on a day to be fixed for this purpose, and to be at least fourteen days after the date on which he may pass the order of confiscation.

Appeals.

All persons whose property may be so confiscated and advertised shall be at liberty, at any time within ten days after the date of the Collector's order of confiscation, to appeal therefrom by a regular suit in the Díwání Adálat of the city of Benares; and the Collector, if duly advised of such suit having been instituted, shall defend the same through the vakíl of Government, and postpone the sale till the determination of it, as well as conform to the judgment which may be passed thereupon, subject to the general rules for appeals.

But all such suits shall be brought to a determination with the least possible delay; and if no notice of any suit having been instituted shall be served upon the Collector before the appointed time of sale, he shall make the sale as advertised, and no subsequent claim or plea against the confiscation of the property sold shall be received in any Court of Justice.

The Judge of the city of Benares will of course take care that timely notice is given to the Collector of all suits instituted under this section within the ten days prescribed; and he is not to admit any appeal from the Collector's order of confiscation which may not be preferred within the period limited, unless satisfactory reason be assigned for the delay; nor, in any case, when the appeal may not be preferred in time to give notice of it to the Collector before the appointed day of sale.

Board of Revenue to be furnished with

13. The Collector is to report to the Board of Revenue all confiscations and sales which may take place under the preceding section, as well as to

furnish them with all other information, reports and accounts which may be required from him respecting the stone-quarries and duties referred to in this Regulation, or any matter relating thereto. Reports of confiscations, &c.

14. The Governor General in Council reserves to himself the power of increasing or reducing the rates of duty established by this Regulation if he should hereafter judge it proper, as well as to pass any further rules respecting the stone-quarries in the Province of Benares which may appear expedient. Power of Governor General in Council to increase or reduce duty.

15. The provisions contained in sections 81 and 82, Regulation XXII. 1795,[a] are to be considered as superseded and done away by the present Regulation: except clause fourth of section 82, which exempts the inhabitants of the hills from the payment of any duty on stones quarried by them for their own use, and which exemption is still to continue in force; but the Collector, in his instructions to the dároghas, is to provide against the abuse of it, in such manner as may be most effectual; and if notwithstanding any attempts should be made to extend the exemption beyond the intended privilege to the hill people, the stones, to pass which such attempt may be made, will be liable to seizure and confiscation under section 11 of this Regulation. Part of Regulation XXII. 1795, superseded.

REGULATION XXXIII OF 1803.

Passed on the 24th of March 1803.

A Regulation for preventing the embezzlement of Public Money and the withholding of Public Papers by the Native Officers of Government, in the Provinces ceded by the Nawáb Wazír to the Honourable the English East India Company.

1. IT being necessary that the Collectors should possess the means of recovering the public dues and papers from sazáwals, ámíns and other Native officers withholding the public money, or omitting to attend the Collectors to adjust their accounts, or retaining papers which came into their possession in their official capacity, the Governor General in Council has passed the following rules:— Preamble.

2. *First.*—The Collectors are to take security for the personal appearance of the sazáwals, ámíns, díwáns, sarrishtadárs, munshís, muharrirs, and all Native officers entrusted with the receipt or payment of public money or the charge of public accounts, who now are, or may be hereafter, employed under them, in their capacity of Collectors of the Revenue. Collectors to take security for personal appearance of certain Native officers.

The surety is to bind himself to produce the officer for whom he may become security before the Collector, whenever his attendance may be required, until he shall be discharged from the public service, and shall have received a

[a] Repealed by Act No. VIII of 1868.

writing from the Collector, signifying that he has no demand upon him on the part of Government, either for money, papers or accounts belonging to the public, that may have been committed to him or come into his possession in his official capacity; and further, that in the event of his not producing such officer, he will be responsible for all demands that the Collector may have upon him for public money, papers or accounts, and be liable to be proceeded against in every respect in the same manner as the officer himself had he been forthcoming.

When any such officer is removed or resigns, the Collector is to grant him an acquittal to the above effect, after he shall have delivered up all public papers, accounts or money, that may have been committed to his charge.

The Collectors may require such officers to give new sureties, in cases in which they may have ground to believe that the former sureties, whether admitted by themselves or their predecessors, are not responsible.

Collectors how to proceed to recover public money or accounts in possession of Native officers.

3. If a Collector shall have a claim on the part of Government on any of the Native officers described in the preceding section, for a balance of accounts, or money or papers belonging to Government, he is to require the payment of the money or the delivery of the papers, by a writing under his official seal and signature, and the signature of his díwán or other head Native officer of his daftar for the time being, specifying the amount of the money, or the particular papers required, and the date and place that may be fixed for the delivery of the money or papers.

If the officer shall not discharge the money or deliver up the papers by the limited time, the Collector is empowered to apprehend him, and convey him to the gaol of the Díwáni Adálat of the zila, the Judge of which Court shall detain him in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers.

The Collector is authorized, likewise, to attach such part of the real or personal property belonging to the officer, as may be sufficient to make good the sum which may be due from him.

If his property shall be in another zila, he is to apply to the Collector of that zila, who shall cause it to be attached.

If the property shall be within any other jurisdiction, the Collector is to apply to the Judge of the zila, through the vakíl of Government, to make application to the Judge of such city to attach and deliver it into the charge of the nearest Collector.

The Board of Revenue are empowered to order the property to be sold, under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue.

In the event of the death of any such officer, the surety is to be exonerated

from all responsibility and the Collector is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the vakíl of Government and at the public expense, and the rules in Regulation XXVII. 1803,[a] regarding suits so carried on by the Collectors, are to be held applicable to it.

Procedure where officers abscond or are not forthcoming.

4. If any such Native officer who may have retained public money or papers in his possession shall abscond or not be forthcoming, the Collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the zila;

or if he shall have taken refuge in any other zila, and the Collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collector is to apply to the Judge of the zila to request the Judge within whose jurisdiction the officer may be or reside to cause him to be apprehended.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the zila from which he may have absconded.

Procedure where officer absconds without having adjusted his accounts, or refuses to attend for that purpose.

5. If a Collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by writing to that effect, under the official seal and signature of the Collector, to be fixed up in his kachahrí and at the place in the zila at which the officer may have last resided, the Collector is empowered to prepare the most accurate statement that he may be able of the money or papers in the possession of such officer, and proceed against the surety, upon his engagement, for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer;

or he may cause the officer to be apprehended by his own authority under section 3, if he be within the limits of the zila, or if he shall have taken up his abode in any other zila or jurisdiction by application to the Judge, in the manner directed in section 4.

If it should afterwards appear, upon inquiry before the Court, that no part, or a portion only, of the sum demanded was due from him, or that the papers required were not in his possession, the Collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

Officers or sureties confined for demand of money when to be released.

6. If any such officer or his surety shall be confined on account of a claim for public money, and previous to the sale of his property, or supposing the Collector not to have been able to get possession of any property belonging to

[a] Repealed by Act No. XIX of 1873.

him, at any time subsequent to his confinement, shall deny the justness of the whole or any part of the demand made upon him by the Collector, and find some responsible person who will become security that he will institute a suit in the Court in fifteen days against the Collector to try the demand, and to pay the sum that may be awarded against him with costs and interest at the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the Court is to discharge the officer or surety, and proceed to the trial of the suit;

and if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded, and the property restored to the owner.

Native officers or their sureties may sue Collector whilst in confinement.

7. If any such Native officer or his surety shall be committed to custody by the Collector, and shall not obtain his release in the mode specified in section 6, he shall nevertheless be at liberty, whilst in confinement, to sue the Collector by whom he may have been confined, should he deem the demand upon him unjust.

Collectors to appoint authorized vakíls to defend suits.

8. The Collectors are to appoint one of the authorized vakíls of the Courts to defend any suits which may be instituted against them by any such Native officers or their heirs or sureties, under this Regulation, and all the rules in Regulation XXVII. 1803,[a] regarding suits instituted against the Collector for sums demanded or received by him on behalf of Government, are to be considered applicable to such suits.

REGULATION X OF 1804.

Passed on the 14th of December 1804.

A Regulation for declaring the Powers of the Governor General in Council to provide for the immediate Punishment of certain Offences against the State by the Sentence of Courts Martial.[b]

Preamble.

1. WHEREAS, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any Power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the

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[a] Repealed by Act No. XIX of 1873.

[b] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

Governor General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified; the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the government of the Presidency of Fort William, from the date of its promulgation.

Power in time of war to suspend functions of ordinary criminal Courts, and establish martial law;

2. The Governor General in Council is hereby declared to be empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary criminal Courts of Judicature, within any zila, district, city or other place, within any part of the British territories subject to the government of the Presidency of Fort William, and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and to direct immediate trial by courts-martial of lieges offending against Regulation.

and also to direct the immediate trial, by courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Lieges convicted by court-martial of crime specified in section 2 liable to immediate punishment of death;

3. It is hereby further declared that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section and who shall be convicted thereof by the sentence of a court-martial, during the suspension of the functions of the ordinary criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

and to forfeiture of property.

All persons who shall, in such cases, be adjudged by a court-martial to be guilty of any of the crimes specified in this Regulation, shall also forfeit to the British Government all property and effects, real and personal, which they

shall have possessed within its territories, at the time when the crime of which they may be convicted shall have been committed.

Governor General not precluded from causing persons charged with offence to be tried by ordinary courts.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, instead of causing such persons to be tried by courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

REGULATION XI OF 1806.

Passed on the 3rd of July 1806.

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories; and for extending the rules contained in sections 68 and 72, Regulation XXII. 1795, in clauses fifth and sixth, section 14, Regulation VIII. 1805, and in section 31 of that Regulation, to the whole of the Company's Provinces subject to the immediate government of the Presidency of Fort William; for the guidance of the Civil Officers in applying for guards from the regular battalions; and for modifying the rule contained in clause first, section 12, Regulation I. 1804.[a]

Preamble.

1. WHEREAS it is expedient to enact into a Regulation for general information and observance, the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments through the Company's Provinces, for ascertaining and defraying any necessary expense incurred for that purpose, and for providing compensation when any material damage may be sustained in the cultivation of the country from the march or encampment of troops:

And whereas it has also been judged proper to empower the local officers of Police to afford such reasonable assistance as may be required by travellers (whether European or Native) proceeding through their respective jurisdictions, in procuring the means of prosecuting their journeys:

And whereas it is further necessary to extend to the other Provinces under this Presidency (with modifications) the rules established in the Province of

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874. Repealed as to coolies, Beng. Reg. III of 1820.

Benares by sections 68 and 72, Regulation XXII. 1795,[a] prohibiting, with certain exceptions, the use of the uniform of the Company's Native troops, the sending of sepoys or lascars into villages for the purpose of procuring provisions or of pressing *coolies* and boatmen, and the employing of badged peons or other public servants wearing badges; as well as the rule established in the Ceded and Conquered Provinces, by clauses fifth and sixth, section 14, Regulation VIII. 1805,[b] for the trial and punishment of military guards in charge of prisoners who may escape; and likewise the rule contained in section 31, Regulation VIII. 1805, for promulgating the Regulations in the country-language:

And whereas it is likewise necessary that fixed and defined rules should be established for the guidance of the Magistrates and other civil officers in applying for detachments, guards or escorts for the public service from the regular battalions:

And whereas it has been judged advisable to modify the rule contained in clause first, section 12, Regulation I. 1804:[c]

The following rules have been enacted, to be in force throughout the whole of the Provinces subject to the immediate government of the Presidency of Fort William (according as such rules may be applicable to the said Provinces respectively) from the date of their promulgation.

Notice to be given to Collectors and Magistrates, by officers commanding detachments.

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories, the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors of the Revenue of the zilas through which the troops are to pass, of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

The commanding officer will likewise notify to the Collectors the probable period of the arrival of the troops at the rivers or nálás intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them. The commanding officer will at the same time communicate to the Magistrates of the zilas through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdictions.

Procedure of Collector on notice.

3.[d] *First.*—On receiving the notification mentioned in the foregoing section, the Collector shall immediately issue the necessary orders to the landholders, farmers, tahsíldárs or other persons in charge of the lands through

[a, b] Repealed by Act No. VIII of 1868. [c] Repealed by Act No. XXIX of 1871.

[d] See Reg. VI of 1825.

which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nálás as may intersect their march, without any impediment or delay.

The Collector shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, *coolies*, boatmen, carts and bullocks as may be indispensably necessary to enable the troops to prosecute their route.

Police to assist in providing bearers, boatmen, carts and bullocks.

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest Police officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks, required.

Rates for supplies furnished to troops.

Second.—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bázár prices of the place at which they may be provided;

Commanding officers to inquire into, and redress, complaints against persons under their command.

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf, against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

Certificate to be granted by commanding officer when troops are provided with boats, &c.

4. *First.*—Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges or other accomodations, by any landholder, farmer, tahsíldár or other person, conformably to the orders of the Collector of the zila, for the purpose of crossing the troops and their baggage over rivers or nálás, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service.

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify, generally, the dimensions of the bridges and the materials of which they may be composed.

Certificate to be sent to Collector with account.

Second.—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector of the zila by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

The Collector shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account to be sent by Collector to commanding officer. Endorsement by commanding officer.

Third. When the account above-mentioned shall be returned to the Collector, he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the zila; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the Governor General in Council.

Account and vouchers to be sent by Collector with his report to Governor General.

After the account shall have undergone the examination and report prescribed for all military contingent charges, the Governor General in Council will pass such final order as may appear proper.

In the meantime the Collector is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Collector may pay charge if reasonable.

5. *First.* Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Procedure for landholders, &c., sustaining injury from march or encampment.

Certificate by commanding officer.

Second. If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector of the zila (either in person or by his vakíl) within ten days from the date of the certificate; but no claim of this description shall be received by the Collector after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

Certificate with statement of claim to be presented to Collector within ten days.

The Collector, on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as

may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is however declared that no claim will be received, unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

Procedure by Magistrates on receiving notice mentioned in section 2.

6. Immediately on receiving the notification mentioned in section 2, the Magistrates shall transmit orders to the several Police-dároghas, or other local officers of the Police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Report to Commander-in-Chief by officers commandingtroops on march.

7. Officers commanding detachments of troops or single corps, on their march through any part of the Company's territories are already required, by the general orders issued under date the first of February 1788, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route.

In like manner the Collectors are directed to report to the Board of Revenue, and the Magistrates to report to the Nizámat Adálat, for the information of the Governor General in Council, any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government.

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall be in need of assistance during

his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of Police, to aid him in providing any requisite bearers, boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Assistance how afforded.

On receiving an application of the above nature, the Police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons; provided that a sufficient number of persons who have been accustomed to act as bearers or boatmen, or the requisite number of carts and bullocks not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

Persons and carts and bullocks not to be employed in furnishing assistance.

But all Police-officers are strictly forbidden, under pain of dismission from office (under the rules prescribed by Regulation V of 1804[a]), on applications of the above nature, to compel any persons not accustomed to act as bearers or boatmen to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture.

Persons employed to be at liberty to return from first Police-station.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first Police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

Conditions of assistance to travellers.

The Police-officers are further enjoined to be careful that a proper compensation for the bearers, boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

For this purpose the Police-officers are authorized to adjust the rate of hire to be paid for the bearers, boatmen, carts or bullocks required, and the price of any articles provided; as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a Police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

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[a] Repealed by Act No. XVI of 1874.

REGULATION XVII OF 1806.

Passed on the 11th of September 1806.

A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation XV. 1793; also for a general extension of the period fixed by Regulations I. 1798, and XXXIV. 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafá, kat-kabála or other similar designation.[a]

Preamble

1. THE rules prescribed by Regulation I. 1798,[b] for preventing fraud and injustice in conditional sales of land, under deeds of bai-bil-wafá or other deeds of the same nature, were declared to extend to Benares, as well as to the Provinces of Bengal, Bihár and Orissa; and under the terms of section 2 of that Regulation, might be considered, from the time of its publication, to have established the general limitation of interest at the legal rate of "twelve per cent. per annum."

As however the provisions relative to a limitation of interest, contained in Regulation XV. 1793,[c] and re-enacted for the Ceded and Conquered Provinces by Regulation XXXIV. 1803,[d] have never been expressly extended to Benares, and as it appears that the limitation of twelve per cent. per annum has not yet been considered in force within that Province, it is necessary that an express rule should be enacted for extending to Benares the same limitation of interest and provisions connected therewith, as are in force throughout the other Provinces under this Presidency.

It is further requisite, for the purpose of preventing improvident and injurious transfers of landed property at an inadequate price, by the forfeiture of mortgages accompanied with a condition of sale to the mortgagee, if the amount advanced be not repaid within a stated period (which description of mortgage is common throughout the country, under deeds of bai-bil-wafá, kat-kabála and other similar designations), that an equitable provision should be made for allowing a redemption of the estate within a reasonable and limited period, on payment of the principal sum lent, with interest thereupon if the mortgagee shall not have been put in possession; the Governor General in Council has accordingly enacted the following rules, to be in force from the

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[a] Sections 7 and 8 declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874

[b] See *supra*, p. 16.

[c] Repealed by Act No. VIII of 1868.

[d] Repealed by Act No. XV of 1874.

time of their promulgation, in the several Provinces therein specified respectively.

2. [*Repealed by Act No. XXVIII of 1855.*]

Rates of interest to be decreed by Civil Courts.

3.[a] Instead of the limitations of interest specified in sections 2 and 3 Regulation XV. 1793,[b] if the cause of action shall have arisen before the period stated in the preceding section, the Courts of Civil Judicature are to decree whatever rate of interest may have been voluntarily stipulated; or if interest be payable in any case wherein a specific rate may not have been stipulated according to the law and usage of the Province in conformity with the spirit of section 9, Regulation VII. 1795,[c] which directs, with respect to bills of exchange, receipts or notes of hand, that the custom of the country is to be abided by, and with respect to dealings and money-transactions amongst mahájans and sharáfs, that the established customs observed and enforced amongst them are to be adhered to by the Courts in their inquiries and decisions.

4. [*Repealed by Act No. XXVIII of 1855.*]

Forfeiture of principal and interest not applicable to certain cases.

5. The forfeiture of interest for stipulation of a higher rate than what is authorized, enacted by section 8, Regulation XV. 1793;[d] and the forfeiture of principal and interest, in cases of attempts to elude the prescribed rules, by deductions from the principal or other devices, provided against by section 9, Regulation XV. 1793, shall not be considered applicable to any loans actually and *bonâ fide* contracted, or to any bonds or other instruments voluntarily given for the evidence and security of such loans, previously to the period stated in section 2 of this Regulation.

6. [*Repealed by Act No. XXVIII of 1855.*]

What shall entitle mortgagor or his representative to redeem before final foreclosure, after application by mortgagee for foreclosure.

7. In addition to the provisions made in the Provinces of Bengal, Bihár, Orissa and Benares, by Regulation I. 1798,[e] and in the Ceded and Conquered Provinces by Regulation XXXIV. 1803,[f] for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafá, kat-kabála or any similar designation, it is hereby provided, that when the mortgagee may have obtained possession of the land on execution of the mortgage-deed, or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, the payment or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgagor and owner of such property, or his legal representative, to the redemption of his property, before the mort-

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[a] See Act No. XXXII of 1839.
[b, d] Repealed by Act No. VIII of 1868.
[c] Repealed by Act No. VI of 1871.
[e] See *supra*, p. 16.
[f] Repealed by Act No. XV of 1874.

gage is finally foreclosed in the manner provided for by the following section; that is to say, at any time within one year (Bengal, Faslí or Wiláyati, according to the era current where the mortgage may take place) from and after the application of the mortgagee to the Zila or City Court of Díwání Adálat for foreclosing the mortgage and rendering the sale conclusive, in conformity with section 8 of this Regulation.

Provided that such payment or tender be clearly proved to have been made to the lender and mortgagee or his legal representative; or that the amount due be deposited, within the time above specified, in the Díwání Adálat of the zila or city in which the mortgaged property may be situated, as allowed for the security of the borrower and mortgagor, in such cases, by section 2, Regulation I. 1798,[a] and section 12, Regulation XXXIV. 1803,[b] the whole of the provisions contained in which sections, as applied therein to the stipulated period of redemption, are declared to be equally applicable to the extended period of one year, granted for an equitable right of redemption by this Regulation.

Procedure for mortgagee or conditional vendee desirous to foreclose mortgage or render conditional sale absolute.

8. Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preamble and preceding sections of this Regulation, may be desirous of foreclosing the mortgage and rendering the sale conclusive on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower or his representative) apply for that purpose by a written petition, to be presented by himself, or by one of the authorized vakíls of the Court, to the Judge of the zila or city in which the mortgaged land or other property may be situated.

The Judge, on receiving such written application, shall cause the mortgagor or his legal representative to be furnished, as soon as possible, with a copy of it; and shall at the same time notify to him, by a parwána under his seal and official signature, that if he shall not redeem the property mortgaged in the manner provided for by the foregoing section, within one year from the date of the notification, the mortgage will be finally foreclosed and the conditional sale will become conclusive.

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[a] See *supra*, p. 16.

[b] Repealed by Act No. XV. of 1874.

REGULATION XIX OF 1810.

Passed on the 14th of December 1810.

A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindú temples, colleges and other purposes; for the maintenance and repair of bridges, saráís, kattras and other public buildings; and for the custody and disposal of nazúl property or escheats.[a]

Preamble.

1. WHEREAS considerable endowments have been granted in land by the preceding Governments of this country and by individuals, for the support of mosques, Hindú temples, colleges and for other pious and beneficial purposes; and whereas there are grounds to suppose that the produce of such lands is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments; and whereas it is an important duty of every Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover essential to provide for the maintenance and repair of bridges, saráís, kattras and other buildings which have been erected either at the expense of Government or of individuals for the use and convenience of the public, and also to establish proper rules for the custody and disposal of nazúl property or escheats, the following rules have been enacted, to be in force from the period of their promulgation throughout the Provinces immediately dependent on the Presidency of Fort William.

Superintendence of lands granted for support of mosques, &c.

2. The general superintendence of all lands granted for the support of mosques, Hindú temples, colleges and for other pious and beneficial purposes, and of all public buildings, such as bridges, saráís, kattras and other edifices, is hereby vested in the Board of Revenue and Board of Commissioners in the several districts subject to the control of those Boards respectively.

Appropriation of endowments.

3. It shall be the duty of the Board of Revenue and Board of Commissioners to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for which they were destined by the Government or individual by whom such endowments were granted.

Disposal of ruined buildings.

4. In those cases however in which any of the buildings in question have fallen to decay, and cannot, from that or other causes, be conveniently repair-

[a] Partially repealed by section 16, Reg. XVII of 1816. So much as relates to endowments for the support of mosques, Hindú temples and other religious purposes, repealed by Act No. XX of 1863, section 1. Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

ed, or are not calculated if repaired to afford any material accommodation to the public, the Boards shall recommend that they be sold on the public account, or otherwise disposed of, as may appear most expedient.

Lands or public edifices not to be appropriated by individuals for private uses.

5. Under the foregoing rules, it will of course be incumbent on the Board of Revenue and Board of Commissioners to prevent any lands which have been granted for the support of establishments of the above description from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor; and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons.

6. [*Repealed by Regulation XVII of 1816, section 16.*]

Superintendence of nazúl property.

7. The general superintendence of all nazúl property or escheats is likewise hereby vested in the Board of Revenue and Board of Commissioners respectively, who will inform themselves fully through the channel hereafter mentioned of all property of that description, and report to Government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of.

Appointment of local agents.

8. To enable the Board of Revenue and Board of Commissioners the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each zila subject to the authority, control and orders of those Boards respectively.

Collector to be *ex officio* agent with others.

9.[a] The Collector of the zila shall be *ex officio* one of those agents, with whom the Governor General in Council will unite such other public officers, whether in the civil, military or medical branch of the service, as may from time to time be judged expedient.

Agents to ascertain and report particulars of endowments, &c.:

10. Under the provisions of the present Regulation, it will of course be the duty of the agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those above described, and of all nazúl property or escheats, and to report to the Board to whose authority those agents are respectively subject, any instances in which they may have reason to believe that the lands or buildings are improperly appropriated: being in all cases careful not to infringe any private rights or to occasion unnecessary trouble or vexation to individuals.

Also names, &c., of present trustees or managers:

11. The said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, whether under the designation of mutáwali or any other, and by whom and under what

[a] Modified by Act No. XXXVIII of 1837.

authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rule or maxim applicable to such institutions and foundations.

And all vacancies or casualties with full information as to pretensions of claimants.

12. The local agents will also report to the superior Boards all vacancies and casualties which may occur, with full information of all circumstances, to enable the Boards to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the successor have been in former instances elected, and by whom, or whether he have been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

To recommend fit persons in cases where nomination vests in Government.

13. In those cases in which the nomination has usually rested with the present or former Government, or with a public officer, or of right appertains to Government, in consequence of no private person being competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the superior Board, a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases.

Board to appoint such persons, or make other provision for trust.

14. On the receipt of the report and information required by the preceding clause, the Board of Revenue or Board of Commissioners will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence and management, as may be right and fit with reference to the nature and conditions of the endowment, having previously called for any requisite further information from the local agents.

Saving of private rights.

15. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above-mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing, in the mode and form prescribed by the Regulations, where Government or public officers are parties; or under the general provisions of the Regulations if the suit be brought against a competitor or other private person, for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Object of Regulation.

16. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands granted for public pur-

poses agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government.

In like manner it is fully intended that all buildings erected by the former or present Government or by individuals for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay, and cannot from that or any other cause be conveniently repaired, or which, under existing circumstances, can no longer contribute to the accommodation of the community.

REGULATION XX OF 1810.

Passed on the 29th of December 1810.

A Regulation for subjecting persons attached to the Military Establishments to Martial-law in certain Cases, and for the better government of the Retainers and Dependents of the Army receiving public Pay on fixed Establishments, and of Persons seeking a Livelihood by supplying the Troops in Garrison, Cantonment and Station Military Bázárs, or attached to Bázárs of Corps.[a]

Preamble.

1. By the respective Articles of War for the government of His Majesty's and the Honourable Company's troops, all retainers to a camp, and all persons whatever serving with the forces in the field, though not enlisted soldiers, are to be subject to orders according to the rules and discipline of war.

From the great number of Native retainers and followers attached to military establishments in India, and the importance of a prompt and orderly discharge of their duties to the welfare of the troops, it is necessary that the principle of this Article of War should be extended to other cases than that of actual service in the field, to which it is at present confined, and that it should be applied, under certain restrictions, to the maintenance of a proper discipline among the retainers of the army at all times.

By Regulation III. 1809,[b] the support of the Police and the maintenance of the peace within the limits of cantonments and military bázárs are vested in the officers commanding the troops quartered at such places; but the powers

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] Repealed by Act No. XXIX of 1871.

of commanding officers under that Regulation are restrained[a] to such measures as may be calculated for the prevention of crimes and the apprehension of persons committing them, and they are prohibited from interfering in cases of petty breaches of the peace and other offences of inferior magnitude, unless where the parties are taken in the fact; the cognizance of these offences, as well as those of greater magnitude, being expressly reserved to the Magistrate by that Regulation.

As however it will further tend to the maintenance of good order, to subject the retainers and dependents of the army to punishment for petty offences by a military tribunal, it has been deemed expedient to transfer the cognizance of such cases, under the restrictions and in the mode hereafter mentioned, to courts-martial to be assembled for that purpose by commanding officers; and it has further been deemed expedient, for the ease and security of dealers, and for encouraging their resort to military bázárs, to vest in military Courts to be assembled by commanding officers a power of enforcing the payment of small debts, and of deciding on the spot in petty causes of a civil nature arising between officers, soldiers or retainers of the army, and persons carrying on trade in military bázárs, or between such retainers or traders; the Governor General in Council has therefore been pleased to enact the following rules.

Persons serving with army and receiving public pay, subject to trial by courts-martial for breach of duty, &c.

2. All persons serving with any part of the army and receiving public pay drawn by any officer in charge of a public department appertaining to the army, whether as lascars, magazine-men, khalásís attached to magazines or any other department or establishment, Native doctors, writers, bihishtís, pakhálís, syces, grass-cutters, maháwats, sarwáns or other subordinate servants attached to public cattle, bíldárs, artificers or in any other capacity, shall (provided they are borne upon the fixed establishment of the department in which they are employed, and not otherwise) be subject to be tried by a court-martial for all breaches of their respective duties, and for all disorders and neglects to the prejudice of good order and of the local regulations established by the commanding officer or other competent authority in the cantonment, garrison, station or other places where the troops to which they are attached may be serving.

Limitation of punishment by courts-martial.

3. Provided that it shall not be competent for such court-martial to sentence any persons[b] of the above description to any other or heavier punishment than may now be lawfully inflicted on enlisted soldiers, under the second article of the twenty-fourth section of His Majesty's Articles of War, unless where the forces are serving in the field; for which case provision is already made by

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a. [b] *Sic* in the edition of 1832.

the existing Articles of War, from which nothing in this Regulation is to be understood to derogate.

Menial servants of officers, liable to trial by courts-martial.

4. Menial servants of officers within the precincts of any cantonment, garrison or military station or military bázár, although they shall not be in the receipt of public pay, shall at all times be subject to all such regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order in such cantonment, garrison, station or bázár, and shall be liable to be tried by a Native Court-martial for any breach thereof.

5. [*Repealed by Act No. XVI of 1874.*]

Plans where to be deposited.

6. The plans[a] shall be prepared in quadruplicate, and signed by the commanding officer and the Magistrate of the district; one copy shall be deposited at the head-quarters of the station, another at the kachahrí of the Magistrate, and the other two shall be transmitted to the Commander-in-chief, by whom one copy will be forwarded to Government.

Names of residents within cantonments, &c., to be registered in office of Brigade Major or other officer.

7. The names of all persons having houses, shops or other buildings or fixed places within the limits of the garrison, cantonment or station as described in the plans, in which they carry on trade, or otherwise seek a livelihood by supplying or serving the troops, shall be entered in a register to be kept in the office of the Brigade Major or other station-staff-officer, and to be open to inspection at all reasonable hours.

The name of each person shall be entered both in English and in the language and character commonly used in the district in which the station is situated, and the occupation of the person written opposite to it, in like manner, with the place of his residence and the date of the registration.

Rules as to registered persons.

8. No person shall be registered as attached to the station-bázár without his free consent, and any person so registered shall be entitled at any time to demand his discharge from the registry.

Persons registered shall be entitled to the privileges of registry so long only as they continue to carry on trade or other employment relating to the supply or service of the troops, at some house, shop or fixed place within the limits above-mentioned, and shall be subject during such time to all regulations made by the commanding officer or other competent authority, for the maintenance of good order and fair dealing in the station-bázár, and shall be liable to be tried by a Native Court-martial for any breach thereof.

Persons attached to bázárs of corps to be registered in book at head-quarters.

9. The names of all persons attached to bázárs of corps shall, in like manner, be registered in a book, which shall be kept at the head-quarters of the corps, and shall be open to inspection at all reasonable hours; the entries shall be made in the same manner, in all respects, as those in the registers of station-bázárs.

[a] Provided for in the repealed sec. 5.

Rules as to such persons.

10. No person shall be registered as attached to the bázár of a corps without his free consent, and any person so registered shall be entitled at any time to require his discharge; except when the corps is on actual service, or there is an immediate prospect of its being ordered to march, in which cases it shall be in the discretion of the commanding officer to withhold such discharge so long only as the immediate exigency of the public service requires.

Persons entitled to privileges of registry.

11. No person registered as attached to the bázár of a corps shall be entitled to any of the privileges of such registry, except those who ordinarily carry on the trade or employment in respect of which they are registered, within the place allotted or commonly used for the bázár of the corps when it is stationary.

Registered persons liable to local regulations.

12. All persons registered as attached to bázárs of corps shall, while they continue so attached, be subject to such regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order and fair-dealing in the bázár, and for the prompt and efficient execution of such services as belong to their respective occupations.

13 *to* **18.** [*Repealed by Act No. XXII of 1864.*]

Execution of process of arrest, either civil or criminal, within military stations.

19.[a] In all cases in which it may be necessary to execute any process of arrest, criminal or civil, within the limits of a garrison, cantonment, military station or military bázár (the process of the Supreme Court only excepted), the officers intrusted with the execution of such process of arrest shall in the first instance carry the same to the commanding officer, or if he shall happen to be absent, to the senior officer actually present in the garrison, cantonment or station;

and the commanding officer, or such senior officer, upon such process being produced to him, shall back the same with his signature, and shall forthwith use his utmost endeavours to cause the person or persons named in such process to be discovered, and if within the limits of the garrison, cantonment, station or bázár, to be arrested and delivered according to the exigency of the process, to the civil officer charged with the execution thereof;

Rule not to extend to service of process short of arrest.

but nothing herein contained is to be construed to prevent the service by the civil officer, in the usual way, of summonses, subpœnas or other process of mere citation without arrest.

Description of military stations to which rules are confined.

20. The provisions of this Regulation respecting the trial of petty offences committed within the limits of garrisons, cantonments, military stations or military station-bázárs, and the provisions of this Regulation respecting the execution of process of arrest before judgment against registered persons attached to station-bázárs, are to be considered as applicable only to those

[a] So much of this section as relates to civil process will be repealed from first October, 1877, by Act No. X of 1877

garrisons, cantonments and stations, the limits whereof shall be laid down in plans approved and confirmed by the Governor General in Council, in the manner described in section 5 of this Regulation, and they shall be in force in such garrisons, cantonments and military stations respectively, from the time that the plans so approved and confirmed shall have been deposited at the head-quarters and in the kachahrí of the Magistrates, in the manner prescribed in section 6.

With regard to those garrisons, cantonments or stations to which it may not be found practicable to assign local limits for the purposes of this Regulation, special provisions will be made hereafter, according to the circumstances of each case.

21. [*Repealed by Act No. XXII of 1864.*]

22 *to* 25. [*Repealed by Act No. XI of 1841.*]

Commanding officers not to dispossess proprietors of land or houses within military bázárs.

26. Nothing in this Regulation is to be construed to give any authority to commanding officers to dispossess proprietors of land or houses which may be situated within the limits of military bázárs, although such persons shall refuse to be registered as attached to the bázár, or shall have lost, or forfeited, or resigned their privilege of registry.

Rules as to lands the property of Government within those bázárs.

In all cases in which the ground allotted to those bázárs, or any part of it, is the property of Government, and the occupation of individuals has been declared by Government merely permissive, the commanding officer is empowered to make such general regulations as he may think fit (subject to the approbation of the Governor General in Council) respecting the tenure or occupation of houses, shops or other fixed places situated upon such ground as belongs to Government; which regulations shall in all cases be reduced to writing, and shall, after receiving the approbation of the Governor General in Council, be published in station-orders, with a translation in the language commonly used in the district; and the same shall not be of force until fourteen days after they shall have been so published within the limits of the station-bázár.

REGULATION XI OF 1812.

Passed on the 18th of July 1812.

A Regulation to empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.[a]

1. WHEREAS considerable bodies of persons, being natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier; Preamble.

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava;

and whereas it is, in consequence, necessary that the Governor General in Council should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

Power to order removal of emigrants to parts of country deemed convenient.

2. Whenever the Governor General in Council, upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the Governor General in Council to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner, it shall be competent to the Governor General in Council to order such removal, whenever he may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper;

provided however that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the Governor General in Council to order such property to be sold by public auction under the superintendence of the Collector of the district.

In that case, the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

Power to order leaders or other emigrants to be apprehended and kept under restraint.

4. In cases in which the Governor General in Council may, on due inquiry and matured deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the Governor General in Council to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time as may be deemed by the Governor General in Council necessary for the public good.

Punishment

5. *First.*—Any persons of the above description, or their descendants, who,

while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence, and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

for emigrants or their descendants exciting disturbances in countries from which they emigrated.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence, and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years;

Punishment for persons aiding or assisting in attempts to excite such disturbances.

provided however that if the Judge by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial to the Nizámat Adálat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper;

Proviso.

provided moreover that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the Governor General in Council from the exercise of the power vested in the Government by section 4 of the said Regulation.

REGULATION XXII OF 1812.

Passed on the 5th of December 1812.

A Regulation for exempting certain territories and Jágírs situated on the borders of the Zila of Bandelkhand from the operation of the General Regulations, and for annexing to that Zila certain Lands formerly composing a part of the Jágír of the Killadár of Kalenger.

Preamble.

1. WHEREAS it has been deemed proper, on principles of justice and policy, to confirm or restore to several of the Bandela chieftains their ancient territorial possessions, free from the payment of any tribute to the British Government, and also to place under the authority of several of those chieftains certain lands subject to a fixed tribute payable through the agent to the Governor General, and likewise to grant to several other persons jágírs situated within the ancient limits of the Province of Bandelkhand;

and whereas circumstances have occurred, which render it necessary to explain that it neither was, nor is, the intention of Government that any of the three descriptions of tenures above described should be subject to the operation of the general Regulations, or to the jurisdiction of the civil and criminal Courts of Judicature;

and whereas it has been judged advisable to annex to the zila of Bandelkhand certain lands formerly composing a part of the jágír of the Killadár of Kalenger, the following rules have been enacted, to be in force from the period of their promulgation.

Territories and jágírs of certain chieftains and jágírdárs exempted from operation of Regulations and from jurisdiction of Courts.

2. The territories and jágírs at present in the possession of the undermentioned chieftains and jágírdárs are hereby declared to have always been, and still to be, exempted from the operation of the general Regulations, and from the jurisdiction of the Courts of civil and criminal Judicature, namely:—

The territory of Rájá Kishor Singh, the Rájá of Panná, including the taluq of Sheorájpur, for which a fixed tribute is paid by him through the channel of the Agent to the Governor General in Bandelkhand.

Ditto of Rájá Bakht Singh, the Rájá of Kotra and Adji Garh, including the tappa of Bichaun and the taluq of Kora, for which a fixed tribute is paid by him through the Agent to the Governor General in Bandelkhand.

Ditto of Rájá Bikramajít Bedjey Bahádur, the Rájá of Charkári, including the taluqs of Chandela and Berna, for which a fixed tribute is paid by him through the Agent to the Governor General in Bandelkhand.

Ditto of Rájá Kissari Singh, the Rájá of Jaitpur.

Ditto of Rájá Rattan Singh, the Rájá of Bijáwar.

Ditto of Rájá Tej Singh, the Rájá of Sindelá.

Ditto of Rajá Mohan Singh, the Rájá of Baraundá.

The jágír of Díwán Jugal Parshád, the jágírdár of Berrí, &c.

Ditto of Díwán Bankat Ráo, jágírdár of Beyhit, &c., the son of Díwán Aparbal Singh, deceased.

Ditto of Ráo Pancham Singh, jágírdár of Alipura, the son of Díwán Partáb Singh, deceased.

Ditto of Díwán Dhiraj Singh, jágírdár of Logassí, &c.

Ditto of Ráo Pirthi Singh, jágírdár of Jígní, &c.

The territory of Chobey Dariáo Singh, jágírdár of Paldeo, &c.

Ditto of Chobey Salligrám, jágírdár of Kasba Purwá, &c.

Ditto of Chobey Nawal Kishor, jágírdár of Bhaisont, &c.

Ditto of Chobey Chhattarsál, jágírdar of Naogaon, &c.

Ditto of Chobey Gayaparshád, jágírdár of Terrao, &c.

Ditto of Chobey Pokarparshád, jagírdár of Párwá, &c.

Ditto of Gopál Lál, jagírdár of Kamtá and Rajaolá.

The territory of Tákwúr Dúrjan Singh, jágírdár of Maiher, &c.
Ditto of Lál Sheoráj Singh, jágírdár of U'char, &c.
Ditto of Lál Amán Singh, jágírdár of Saháwál, &c.
Ditto of Lál Dunápat, jágírdár of Kothí, &c.
Ditto of Rájárám Killadár, jágírdár of Maniára, &c.
Ditto of Pursrám Bahádur, jágírdár of Khaddi, &c.
Ditto of Kúr Jagat Singh, jágírdár of Naiya Gaon, &c., son of Lachhman Langrá, deceased.
Ditto of Díwán Bahádar Gopál Singh, jágírdár of Gadrautí, &c.

Proviso as to other villages or lands acquired.

Provided however that in cases in which any of the said chieftains or jágírdárs, or their successors, may have acquired or may hereafter acquire any other villages or lands situated within the limits of the British possessions than the territories and jágírs above specified, they shall, in common with all other Native British subjects, be considered amenable to the jurisdiction of the established Courts of Judicature, and subject to the operation of the general Regulations in regard to all acts done by them in the said villages and lands which they may respectively possess.

Jágír of late Killadár of Kalenger annexed to Bandelkhand.

3. The portion of the lands constituting the jágír of the late Killadár of Kalenger, which has been ceded to the British Government, is hereby annexed to the zila of Bandelkhand.

Regulations in force in such jágír

4. The laws and Regulations established for the internal administration of the zila of Bandelkhand are hereby declared to be in full force and effect in the lands specified in the preceding section.

REGULATION V OF 1817.

Passed on the 28th of February 1817.

A Regulation for declaring the rights of Government and of individuals with respect to hidden Treasure, and for prescribing the rules to be observed on the discovery of such Treasure.[a]

Preamble.

1. WHEREAS the provisions of the Muhammadan and Hindú laws respecting the discovery of hidden treasure differ materially; and whereas it is deemed expedient that an uniform principle should be established for the guidance of persons by whom hidden treasure may be discovered, the following provisions are enacted, to be in force as soon as promulgated throughout the Provinces immediately subordinate to the Presidency of Fort William.

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

Hidden treasure when to become property of finder

2. Whenever any hidden treasure, consisting of gold or silver coin, or bullion, or of precious stones, or other valuable property, may be found buried in the earth, or otherwise concealed within any part of the territory subject to this Presidency, and, after due notification, the owner thereof may not be discoverable, such hidden treasure shall become the property of the person or persons who may have found the same, provided it shall not exceed in amount or value the sum of one lákh of sikká rupees; and provided the finder or finders shall have conformed to the rules prescribed in this Regulation.

3, 4. [*Repealed by Act No. VIII of 1868.*]

Collectors to bring forward claim of right on part of Government.

5. It shall be the duty of the Collectors of land-revenue acting under the instructions of the Board of Revenue, to bring forward and to support, in conformity with the foregoing provision, any claim of right which Government may appear to possess to such treasure.

Summary inquiry instituted.

In the event of any claim of right being preferred, either on the part of individuals or of Government, pursuant to the prescribed notification, the Judge shall institute a summary inquiry into the claim preferred, and if the title of Government, or other person so claiming the treasure in deposit, or any part thereof, be clearly established, he shall adjudge the same accordingly, subject to reimbursement of all expense incurred by the finder of the treasure, as well as to such compensation for the discovery of it as may, in such case, appear just and reasonable.

Judgment how awarded.

Judgment when no claim preferred by Government or individuals, and amount does not exceed one lákh.

6. If no claim of right be preferred either by Government or by an individual, or if the claim or claims so preferred shall not on a summary inquiry appear to be well founded, and the amount or value of the hidden treasure found at the same time, or in the same place, shall not exceed one lákh of sikká rupees, the zila Judge shall adjudge the same to the person or persons who may have discovered the treasure, subject only to the actual expense which may have been incurred in adopting the measures prescribed by this Regulation.

Decision when amount exceeds one lákh, and no claim of right is established.

7. If the amount or value of any hidden treasure found at the same time, or in the same place, shall exceed one lákh of sikká rupees, and no claim of right thereto be established, judgment shall be given, according to the preceding section, in favour of the person or persons who may have discovered the treasure, to the amount of one lákh of sikká rupees; and the excess above that sum shall be declared at the disposal of Government.

Persons discovering treasure, and neglecting to give notice within one month, to forfeit all right

8. If any person discovering hidden treasure of the description specified in section 2 of this Regulation shall not, within one month after finding the same, give notice to the Judge of the Zila or City Court, he shall be considered to have forfeited all right and title to the treasure, as well as all claim to a reimbursement of expense, compensation or reward, under the provisions

of this Regulation, and the treasure so clandestinely withheld from public investigation shall, on a summary suit by any subsequent claimant of right, and proof of a just title thereto, be adjudged to the legal owner with interest and costs, or if no private claim be established, shall, on the application of the vakíl of Government, under instructions from the Board of Revenue, be liable to confiscation to Government.

to treasure and compensation.

9. The summary decisions of the Judges of the Zila Courts, which may be passed under this Regulation, shall be open to a summary appeal.

Summary appeal.

REGULATION XX OF 1817.

Passed on the 7th of October 1817.

A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of dároghas and other subordinate officers of Police, for modifying the existing rules concerning the resistance or evasion of criminal process, and for requiring further aid to the Police in certain cases, from proprietors and farmers of land and their local managers, as well as from the mandals and other heads of villages.

Execution of Criminal Process in the Commercial, Salt and Opium Departments; and Duties of Dároghas relating to those Departments.

29. *First.*—In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any officer or person employed in the Salt or Opium Department, the dároghas of Police shall transmit the summons or warrant, under a sealed cover, addressed to the Opium Agent, or the head Native officer of the árang, koṭhí or chaukí, who will either give, or direct sufficient security to be given, for the due attendance of the party, certifying on the back of the process the manner in which it has been served, and by whom the security has been given, or causing the defendant to accompany the officer bearing the dárogha's process to the thána.

Security for appearance of persons employed under Salt or Opium Department accused of bailable offences.

Second.—In cases of bailable nature, in which a person under engagements, and employed in the Opium Department, may be summoned under the provisions of the preceding clause during the manufacturing season, the dárogha of Police shall, with the view of preventing unnecessary interruption to the manufacturer, require the party summoned to appear in person or by vakíl, either during or after the manufacturing season, as the circumstances of the

In such cases accused not to be forced to appear till after manufacturing season.

case may dictate, subject to the future orders of the Magistrate, to whom the dárogha shall in each instance report the reasons which may have influenced him in the exercise of the discretion here vested in him.

Rule for serving summonses on witnesses employed in the Company's árangs, and form of their recognizance.

Third.—Summonses to any officers or persons employed in the Opium Department, to attend as witnesses, shall be served in the manner directed by the preceding clauses of this section; but the Opium Agent, or the head Native officer of the árang, koṭhi or chaukí, shall, instead of requiring the person summoned to give security, or proceed to the thána, take from the witness a recognizance agreeable to the form No. 13 of the appendix, and shall deliver the same to the officer serving the process.

Warrants for offences not bailable to be served upon persons so employed, as upon others,

Fourth.—If a charge shall be preferred to a Police-dárogha against any officer or person employed in the Opium Department for an offence that is not bailable, and there shall appear to the dárogha of Police sufficient ground under the provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person, and shall be executed in the same manner as upon persons not so employed.

the dárogha giving notice to Agent.

But the dárogha, after securing the offender, is to give notice of his apprehension to the Opium Agent, or to the head officer of the nearest árang, koṭhí or chaukí, as the case may be.

Police-officers to suppress illicit cultivation of opium.

Ninth.—All officers of Police are strictly enjoined, under pain of dismission from office, to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation or possession of opium.

Penalty for allowing illicit cultivation.

Twelfth.—Any Police-dárogha who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall be convicted of conniving in any respect at the illicit cultivation of the poppy, shall, besides being liable to dismission from office for neglect of duty, be further subject, on conviction before the Magistrate of the zila, to the payment of the fine stated in section 31, Regulation XIII, 1816,[a] for whatever quantity of land shall have been so illegally cultivated within his jurisdiction with his knowledge or connivance; and the fine, if not duly paid, shall be commutable to imprisonment for a period not exceeding six months.

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[a] Repealed by Act No. XIII of 1857. Sec. 31 is as follows: Any person who shall cultivate the poppy in opposition to the prohibition contained in section 3 of this Regulation shall be liable to prosecution before the Collector of the land-revenue or other officer in charge of the Ábkárí mahál of the district, and on conviction shall be subject to a penalty, to be calculated at the rate of twenty sikká rupees per bígha for whatever quantity of land shall have been so illegally cultivated; and if the poppy-plants shall be growing on the said land, and the opium shall not have been extracted therefrom, the plants shall be destroyed.

If the opium shall have been extracted and shall be seized, the same shall be confiscated.

If the opium shall have been extracted and shall not be seized, the cultivator of the said land shall be subject to a penalty of thirty-two sikká rupees per bígha, instead of twenty sikká rupees per bígha, as above directed.

In addition to the above penalties, the offender shall be liable to imprisonment for a period not exceeding six months, and to further imprisonment not exceeding six months more, in the event of the fine not being duly discharged.

Miscellaneous Rules regarding Forts, Armed Men, Military Stores, Dress of Sepoys or Lascars, and Badges, Public Roads, and Insane Persons.

30. *First.*—The dároghas of Police shall uniformly report to the Magistrates whenever any individuals within their respective jurisdictions may entertain in their service any extraordinary number of armed men, or may commence building or repairing any fort or garhí, or collecting together any quantity of arms, ammunition or military stores. Dároghas to report circumstances appearing dangerous to public peace.

Second.—The dároghas of Police are required to apprehend and send to the Magistrate all persons not actually in the Honourable Company's military service, or belonging to persons specially exempted by Government from the operation of the rule contained in the section above mentioned, who may be found dressed in the uniform of the Company's sepoys or lascars, or in a dress so nearly approaching to that uniform as to enable the persons wearing it to impose themselves on the country people for sepoys and lascars. To apprehend unauthorized persons dressed in uniform of Company's sepoys.

Third.—[*Repealed by Act No. XVI of 1874.*]

Fourth.—[*Repealed by Act No. XVIII of 1835.*]

Fifth.—The dároghas of Police shall prevent all encroachments on the public roads, and shall, at the same time, report the circumstances of each case for the information of the Magistrate, and record an abstract of the same in his thánadárí proceedings. Dároghas to report encroachments on public roads.

REGULATION III OF 1818.

Passed on the 7th of April 1818.

A Regulation for the confinement of State Prisoners.[a]

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under per- Preamble.

[a] See Acts No. XXXIV of 1850, and No. III of 1858. Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

sonal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family; and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamíndárs, taluqdárs and others situated within the territories dependent on the Presidency of Fort William, should be attached and placed under the temporary management of the Revenue Authorities, without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government; the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

Proceeding for placing persons under restraint as State prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.[a]—The warrant of commitment shall be in the following form :—

To the [*here insert the officer's designation.*] ·

" Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III. of 1818.

" Fort William, the

" By order of the Governor General in Council.

" *A. B.*, Chief Secy. to Govt."

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[a] See Act No. XXXIV of 1850, sec. 1.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William. Authority of warrant.

3. Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health, and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified. Officers having custody of State prisoners, to submit periodical reports.

4. *First.*—When any State prisoner is in the custody of a zila or city Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head. State prisoners in custody of zila or city Magistrate by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a zila or city Magistrate, the Governor General in Council will instruct either the zila or city Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner. State prisoners in custody of public officer not being zila or city Magistrate, by whom to be visited.

5. The officer in whose custody any State prisoner may be placed, is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council. Representations by State prisoners to be submitted to Government.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council, whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life. Report to Government regarding confinement, &c., of prisoners.

7. Every officer in whose custody any State prisoner may be placed, shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object. Appropriation of allowance for support.

8. [*Repealed by Act No. XVI of 1874.*]

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamíndár, jágírdár, taluqdár or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and Attachment of estates by order of Government without decision of Court.

such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, and to the Sadr Díwání Adálat and Nizámat Adálat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khás management.

Attached lands not liable to sale in execution.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Rules as to cases where Government orders release of estate from attachment.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue Authorities will be directed to release the estate from attachment, to adjust the accounts of the collections, during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate, which may have accumulated during the attachment.

REGULATION VI OF 1819.

Passed on the 25th of June 1819.

A Regulation for rescinding Regulation XIX of 1816, and for enacting other Provisions in lieu thereof.[a]

Preamble.

1. WHEREAS the rules contained in Regulation XIX. 1816, intituled, "A Regulation for the better management of ferries, &c." have not in their general operation been attended with the advantages contemplated by Government in enacting them; and whereas it has been judged expedient to restrict the interference of the officers of Government in regard to ferries to objects connected with the maintenance of an efficient Police, the safety and convenience of travellers, and the facility of commercial intercourse: and whereas it will in

[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

consequence be expedient to place such ferries under the exclusive charge of the Magistrates and Joint Magistrates, the following rules have been enacted, to be in force throughout the Provinces subject to the Presidency of Fort William.

2. *First.*—[*Repealed by Act No. XVI of 1874.*]

Superintendence of public ferries vested in Magistrates, &c.

Second.—The Collectors of Revenue will refrain from exercising any interference with the public ferries, the immediate superintendence of which shall be vested in the Magistrates and Joint Magistrates.

What ferries considered public.

3. *First.*—No ferries shall be hereafter considered public ferries, except such as may be situated at or near the sadr stations of the several Magistrates or Joint Magistrates, or such as may intersect the chief military routes, or other much-frequented roads, or such as from special considerations it may appear advisable to place under the more immediate management of the Magistrates and Joint Magistrates.

Magistrates not to assume charge of unassessed ferries, unless specially authorized.

Second.—The Government reserves to itself the power of determining, from time to time, what ferries shall, under the preceding rule, be deemed public ferries, and as such shall be subject to the immediate control of the Magistrates and Joint Magistrates; and no Magistrate or Joint Magistrate shall, without previous authority from Government, assume the management of any ferry which may not have been let in farm or held khás, or otherwise subjected to assessment by the Collectors.

Lists of proposed ferries to be submitted to Government.

Third.—It will be the duty of the several Magistrates and Joint Magistrates to prepare lists of the ferries which, in their judgment, should, under the foregoing rules, be considered to be public ferries, and transmit them, as soon as prepared, for the information and orders of Government.

Appointment of persons to charge of ferries.

4. *First.*—The power of appointing proper persons to the charge of the public ferries is vested in the Magistrates and Joint Magistrates, who are authorized from time to time to issue such orders as they may judge expedient for limiting the rates of toll to be levied at each ferry, for regulating the number and description of boats to be maintained, for preventing exactions, and generally for promoting the efficiency of the Police, and the safety and convenience of the community.

Rates of toll, number of boats, &c.

Removal of mánjís or others in charge of ferries.

Second.—On proof of any wilful breach of those rules, or of other misconduct on the part of the mánjís or other persons in charge of the public ferries, the Magistrates and joint Magistrates are empowered (independently of any punishment to which the parties may subject themselves under the general Regulations) to remove such individuals and to appoint others in their room.

Persons exempted from toll.

Third.—The mánjís or other persons who may be vested with the charge of public ferries are to engage to cross free of toll the troops of Government, with their baggage and military stores, as well as all Police and other Native officers of Government who may be actually employed on the public service.

Publication of attested lists of ferries.

5. A list of all public ferries, bearing the signature of the Magistrate or joint Magistrate, shall be constantly stuck up in some conspicuous place in their kachahrís,[a] and in that of the Collector of the district, and likewise in the thána within the jurisdiction of which they may be situated.

Exclusive right of Government to public ferries.

6. *First.*—Such ferries shall exclusively belong to Government, and no person shall be allowed to employ a ferry-boat plying for hire at or in their immediate vicinity, without the previous sanction of the Magistrate or joint Magistrate; provided however that due attention shall be paid to all claims

Compensation for loss sustained.

for compensation which may be preferred by individuals, for any loss which may be sustained by them in consequence of the extension of the authority of Government to ferries hitherto under their private management, and which may not have been heretofore let in farm or held khás, or otherwise deemed subject to assessment on account of Government.

Such cases to be investigated and reported to Government.

Second.—Claims of that nature shall be inquired into by the Magistrates and joint Magistrates, and their opinion on the merits of each case shall be reported for the consideration and orders of Government.

Objects to which Magistrates and joint Magistrates are to attend, in assuming charge of public ferries.

7. *First.*—In assuming the management of public ferries, the general objects of the Magistrates and joint Magistrates shall be, the maintenance of an efficient Police, the safety and convenience of travellers, the facility of commercial intercourse, and the expeditious transport of troops.

For the above objects, they shall be careful to provide or cause to be provided safe and commodious boats; they shall fix the rates of toll on a very moderate scale, in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX. 1816;[b] they shall adjust the modes of payment, so that the tolls may bear as lightly as possible on the poorer classes of the community, and by leaving a fair profit to the individual who may be chosen for the immediate charge of the ferries, they shall endeavour to secure as far as possible the services of respectable and competent persons.

Collections for Government.

Second.—No collections shall be taken on account of Government from the proceeds of any ferry until the above objects are fully secured; and if in any

Surplus-collections how appropriated.

case there shall remain a clear surplus-profit after providing adequately for those purposes, the amount collected shall be applied solely to the furtherance of similar objects; such as the repair or construction of roads, bridges and drains, the erection of saráís or other works of a like nature.

Proceeding where public ferry yields surplus.

Third.—In cases of the latter description, namely, those in which the receipts of any ferry shall be sufficient to afford a surplus-revenue as above mentioned,

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[a] *Sic.* Read 'his kachahrí.'

[b] Repealed by this Regulation, sec. 2.

the Magistrate or joint Magistrate, having previously received special authority from Government in that behalf, may and shall require the person holding or applying for the charge of the ferry to enter into an engagement for the payment, by monthly or quarterly instalments, of such a sum of money as, with reference to the estimated surplus, may appear justly demandable, without risking the primary objects above indicated; Engagement for payment of instalments.

and if any person in charge of a ferry shall refuse to enter into an engagement as aforesaid, and shall not assign sufficient cause for such refusal to the satisfaction of the Magistrate or joint Magistrate, it shall be competent to such officer to transfer the charge of the ferry to any other respectable and competent person: Procedure when person refuses to engage.

provided however that no person in charge of a ferry, who shall otherwise conduct himself to the Magistrate's satisfaction, shall be removed from his charge under the above rule, excepting at the expiration of the Bengal or Faslí year, according to the era current in the Province.

Fourth.—The mode in which collections made under this section shall be paid, whether into the treasury of the Magistrate or Collector, or any other public officer, shall be determined by the orders of Government, and adjusted with the party by the Magistrate or joint Magistrate, at the time of giving him charge of the ferry or ferries intrusted to him; Mode of paying collections realized.

provided however that, as a general rule, all persons in charge of ferries subject to the payment of a rent shall, on discharging any instalments, receive and be directed to require receipts for the amount, which shall be countersigned by an European officer of Government. Receipts for payments by ferry-renters.

8. The Magistrate or joint Magistrate shall be competent to take security for the good behaviour of persons vested with the charge of public ferries, and in the case of persons who may, under the provisions of the foregoing section, enter into an engagement for the payment of a yearly rent, it shall likewise be competent to the officers aforesaid to require adequate security for the punctual payment of the amount as it may become due. Security to be given by persons in charge of public ferries.

9. Any person in charge of a public ferry, whether subject to the payment of rent or not, shall be at liberty to relinquish the charge on giving ten days' notice to the Magistrate or joint Magistrate, and on paying any arrears that may be due: Persons when allowed to relinquish charge.

provided however that it shall in such case be competent to the Magistrates or joint Magistrates to require any person who may so relinquish the charge of a ferry, or who may be removed from such charge, to transfer the boats belonging to the ferry to the person who may be appointed to succeed him, at a fair valuation, or to retain the boats until others can be provided, making a suitable compensation to the owner. Proviso as to transfer of boats.

Recovery of rent from defaulter

10. If any person having charge of a ferry, and subjected to the payment of a yearly rent, shall fail to discharge the amount as it may become due, he shall be liable to immediate removal, and the Magistrate or joint Magistrate, after ascertaining the arrear and certifying the default, will proceed to the recovery of the amount from the party and his surety, in the manner prescribed for the recovery of public money embezzled by Native officers of the civil and criminal Courts; giving at the same time a liberal consideration to any pleas which the party may urge in explanation of the default.

Information to persons receiving charge of ferries.

11. All persons vested with the charge of public ferries, whether paying any rent or not, shall, on accepting the situation, be distinctly apprized that the Magistrates and joint Magistrates reserve to themselves the power of reducing the rates of toll, or extending the exemptions from the payment of it, at such times and in such manner as shall appear proper, with a view to the public good;

Option to relinquish charge.

provided however that in the event of any such measures being adopted, the party in charge of the ferry may relinquish the charge, and the Magistrate shall in such case purchase from him at a fair valuation, or cause his successor so to purchase, all boats belonging to the ferry, with all articles thereunto appertaining.

Intended abatement of rent to be communicated to ferry-renter.

12. *First.*—Provided also, that whenever a Magistrate or joint Magistrate shall adopt such measures in regard to any ferry for which a rent shall have been required from the person vested with the charge of it, the said Magistrate or joint Magistrate shall, in communicating his orders to the party aforesaid, at the same time apprize him whether he designs to allow any and what reduction in the stipulated rent.

Case of person unwilling to pay rent fixed by Magistrate.

Second.—If the person in charge of the ferry shall not be willing or able to pay the rent so fixed by the Magistrate or joint Magistrate, he shall nevertheless immediately carry the Magistrate's or joint Magistrate's order into effect, and shall state in his reply to those orders the amount of rent which he may be willing to continue to discharge.

Should the offer of the party in charge of the ferry appear inadequate, it shall be competent to the Magistrate or joint Magistrate to remove him and to place another person in charge of the ferry, purchasing the boats and their appurtenances as aforesaid; but the person so removed shall be required to pay, for the days during which he may retain charge, subsequently to the date of his reply to the Magistrate's order, a proportionate rent, calculated at such rate only as he may have tendered.

Magistrates not to interfere with other than public ferries,

13. *First.*—The foregoing rules are intended to apply exclusively to those ferries which may be declared to be public ferries.

With regard to all other ferries, the Magistrates and joint Magistrates

except for purposes of Police, &c.

shall not interfere with them further than may be necessary for the general maintenance of the Police, and for the safety of passengers and property.

Proviso, in cases where persons or property may suffer by boat being overloaded, or inadequately found.

Second.—Provided however that if any person shall be drowned or exposed to imminent danger, or if any property shall be lost or damaged by the oversetting or sinking of a ferry-boat, and it shall be established on inquiry before the Magistrate or joint Magistrate, that the boat was overloaded with passengers or property, or was insufficiently manned, or was out of repair at the time of the accident, the mánjí of the ghát or boat, if duly convicted of permitting his boat to be overloaded, or to be insufficiently manned, or out of repair, shall be liable to such punishment as the Magistrate or Joint Magistrate may think proper to impose, not exceeding imprisonment for six months, or a fine of two hundred rupees.

REGULATION XI OF 1822.

Passed on the 22nd of November 1822.

A Regulation *for modifying and explaining the existing Regulations relative to the sale of land for the recovery of arrears of revenue ;* for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice ; *and for making further provision for the conduct of the Revenue officers in certain cases.*

Government not liable for errors of Courts.

38.[a] It is hereby declared and enacted, that Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular.

Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid ;

and if any person or persons shall sue Government, or any officer of Government, for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be nonsuited, with costs.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

REGULATION VI OF 1823.

Passed on the 10th of July 1823.

A Regulation for authorizing the Institution of Summary Suits to enforce the execution of certain written engagements for the cultivation and delivery of the Indigo-plant, and for declaring certain principles in regard to the same.[a]

Preamble.

1. THE poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption.

The capitalist advances his money, and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land, either at a certain fixed price, or at rates to be subsequently determined with reference to the market-price at a specified season; and this system is understood, generally, to prevail in the Province of Bengal, in the cultivation of the plant from which the indigo-dye is extracted.

According to the existing Regulations, if the contracting raiyat should fail to cultivate the land in the manner specified, or, having so cultivated the land, should sell the produce to another, or otherwise defraud his creditor, and fail to execute his contract by delivery of the stipulated article, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement.

It is usual for the Courts of Justice, in decreeing such causes, to award such limited penalty as may, in each instance, appear to be a fair compensation to the person making the advances, for the non-employment of his capital.

In the absence however of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers, as to the extent of penalty recoverable on agreements of this nature.

Under the rules for imposing a stamp-duty, it is provided that all deeds and agreements shall be written on paper bearing a certain stamp, proportioned "to the value of the property transferred, or otherwise affected."

But in agreements of the kind above described, it is not clear whether the amount of the stamp ought to be fixed with reference to the sum actually advanced, or to the penalty or penalties which may be specified as eventually exigible on the failure of the contractor; and it is of great importance to the parties that this point should be determined so as to prevent the risk of *bond*

[a] See Regulation V of 1824 and Act No. X of 1836, section 5. Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

fide deeds being rendered void, in consequence of any inaccuracy in the description of stamp-paper employed in drawing up the agreement.

It seems reasonable also that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo-plant produced on that land, when so stipulated in a written engagement between the parties, and especially in cases in which such written engagement may have been duly registered, and that it should not be in the power of a raiyat, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides, as above observed, no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court.

The difficulty and delay of obtaining redress by that course have not unfrequently led to acts of violence, and even to serious affrays, and the more frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo-manufacturers in some parts of Bengal, arising from the unusually high price of indigo.

The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes, and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the Province of Bengal from the date of their promulgation.

When persons making advances for cultivation of indigo-plant, on certain land, have lien or interest in its produce.

2. If any person shall have given advances to a raiyat or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo-plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests, and for the due execution of the conditions of the contract.

Such person how to proceed, when he has just reason to believe that raiyat will dispose of produce other-

3.[a] *First.*—If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to ply the same

[a] See Act No. X of 1836, section 4, *infra*.

wise than stipulated.

to another, it shall be competent to such person to present a petition of complaint to the zila Judge within whose local jurisdiction the land stipulated to be cultivated with the indigo-plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bonâ fide* executed by the individual complained against.

Summons for attendance of defendant.

Second.—On such petition and original deed of engagement being filed, a summons, or talab chiṭṭhí, shall be immediately issued through the Názir in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.

Summons how served,

Third.—The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village kachahrí or other place of public resort, and to erect a bambú on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out.

and public notice of claim how given.

By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose, and the failure so to attend, before the summary decision be passed, will be held to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

On non-appearance of defendant or other claimants, evidence to be taken, and case decided *ex parte*.

Fourth.—If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be preferred in bar of that of the plaintiff, the Judge or other officer shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared.

In what cases award shall be passed, adjudging plaintiff's right to produce.

Fifth.—If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken; and if its voluntary execution be established to the satisfaction of the Court, or other tribunal trying the case, and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crop according to the terms of the agreement.

The same principle shall be applied if the engagement be admitted, and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.

If claim be not established, plaintiff to pay costs and compensation to defendant.

Sixth.—If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs, and such reasonable sum in addition as may seem to the Judge or other officer trying the case a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

Notice to third parties in what cases, and their claims how investigated.

Seventh.—If it should appear in the course of the inquiry, that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by vakíl;

and if such person or any third party shall, previously to the decision of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the Judge or other officer trying the case shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and if so, which of them may have the prior and better claim; a preference will of course be given to engagements duly registered.

The result of such investigation shall be recorded, and a decree passed adjudging the question of right between the parties.

Defendant not to be subjected to unnecessary detention.

Eighth.—No defendant, who may attend under the process described in this section, shall be confined in jail, or be in any manner detained longer than may suffice to take his answer to the claim, and to obtain from him such further explanations as the nature of the answer may suggest.

In what cases order may issue to deliver plant to a party, before summary inquiry completed.

Ninth.[a]—If pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the Judge, or other officer trying the case, to pass an order for the delivery of the plant to either of the parties, provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation;

the amount of such compensation shall be fixed by the Judge, or other person trying the case, in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the prob-

[a] See Act No. X of 1836, section 2, *infra*.

able value of such produce when manufactured; and the amount, when so fixed, shall be carefully recorded on the proceedings.

Authority to watch fields and to prevent removal of plant, given to parties in certain circumstances.

4. *First.*—Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land, shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement;

and in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest Police-dárogha and to claim from him the assistance of the Police in preventing such removal;

it shall moreover be the duty of the Police-officers, and of all other officers, on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Security for rent due to landholders how provided.

Second.—In order that the foregoing rule may not operate to the prejudice of the landholders, who, by the existing Regulations, are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided, that whenever any manufacturer, who may have obtained an award under the foregoing rules, may cause the plant to be cut and taken away, he shall be held responsible, conjointly with the raiyat, for any arrear of rent which may have been due on account of the specific parcel of ground from which the indigo-plant may have been taken.

Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo-plant.

5. *First.*—In cases in which a raiyat who may have received advances and entered into written agreements for the cultivation and delivery of indigo-plant, in the manner indicated in this Regulation, shall have failed to cultivate the ground specified, or, having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made away with or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute, at his option, either a summary or a regular suit.

Judgment to what extent in summary suits.

Second.—If the summary process be adopted, and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process.

Third.—[*Repealed by Act No. X of 1836.*]

Penalty in regular suits, where breach of contract not ascribable to fraud or dishonesty

Fourth.—If no fraud or dishonest dealing be established, and the failure of a raiyat or other contractor to execute the stipulations of his engagement by the delivery of indigo-plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest.

VI. Investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of suits for arrears of rent: it shall be competent to any person, whose claim under a deed of engagement for the cultivation and delivery of indigo-plant may have been set aside, or who may be otherwise dissatisfied with the decision passed on a[n] investigation under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled.

Investigations how and by whom conducted.

REGULATION VII OF 1823.

Passed on the 30th of October 1823.

A Regulation for prohibiting Loans by Covenanted Civil Servants from Persons subject to their Official Authority and Influence.[a]

1. WHEREAS by the existing Regulations all covenanted civil servants of the Company, employed in the judicial and revenue departments of the service, are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependent taluqdár, under-farmer or raiyat, or their sureties; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence, the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the Provinces immediately subject to this Presidency.

Preamble.

2. *First.*—All covenanted civil servants, in whatever department of the public service they may be employed, are henceforward prohibited under pain of dismissal from office from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependent of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependent.

Civil servants prohibited from borrowing money from Native officers under their authority, &c.

Second.—In like manner, and under the like penalty, all officers of Government, being covenanted civil servants, are henceforward prohibited from borrowing money from, or in any way incurring debt to, any manager, guardian, executor, ámín, sazáwal, gumáshta, farmer, mutawalli or other person, who may

And from other persons officially accountable to them.

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No XV of 1874

in any way be officially accountable to them, or from and to the known surety, agent, relation, connection or dependent of such person.

Certain officers prohibited from incurring debt to zamíndárs and others residing, or having property, within their districts.

3. All Judges of Zila Courts, all Magistrates, joint Magistrates, registers and assistants to Magistrates, all Collectors and Deputy Collectors of the land-revenue, all assistants to such Collectors or other officers, exercising the powers of such Collector, are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any zamíndár, taluqdár, raiyat or other person possessing real property, or residing in, or having a commercial establishment within, the city, district or division to which their authority may extend.

Penalty for lending money to civil servants.

4. All persons are prohibited from lending money, or otherwise becoming in any way creditor, to any officer of Government, being a covenanted civil servant, in contravention of the above rules:

and any person lending money, or in any way becoming creditor, to any such public officer in breach of this prohibition, shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.

5. [*Repealed by Act No. XVI of 1874.*]

Penalty for officers receiving new appointments, if indebted to individuals contrary to above rules, omitting to report.

6. In like manner, if any covenanted servant, who may be hereafter appointed to any office, shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract a loan while holding such office. it shall be incumbent on such servant, before entering on the duties of the office, to make known the circumstance to the Governor General in Council; and failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office.

Penalty on Natives knowingly taking office in contravention of above rules.

7. Any Native causing himself to be appointed to any office in opposition to the provisions of Regulation XXI. 1814,[a] as hereinbefore extended, or in any way knowingly accepting office in contravention thereof, shall forfeit to Government a sum equal to ten times the yearly salary or allowances attached to the situation to which he may be appointed.

Suits for recovery of penalties.

8. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instructions of the Governor General in Council, and shall be conducted by the Superintendent and Remembrancer of Legal Affairs, or by such other officer as Government may nominate for that purpose;

such suit shall be instituted in the Court of the division within which the transaction may have taken place, or the lender may reside, or may possess real or personal property.

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[a] Repealed by Act No. XXIX of 1871.

An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits; and the judgments shall be enforced under the provisions for the execution of other decrees of the Civil Courts.

REGULATION VI OF 1825.

Passed on the 4th of April 1825.

A Regulation for rendering more effectual the Rules in force relative to supplies and preparations for Troops proceeding through the British Territories.[a]

Preamble.

1. WHEREAS it is enacted in the first clause of section 3, Regulation XI. 1806, that on receiving the notification mentioned in the preceding section, relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, tahsíldárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nálás as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bázár-prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or nálás, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors, or other public officers acting in that capacity, to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, tahsíldár or other person in the possession or management of land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same; the Governor General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William.

Penalty for zamíndárs not providing

2. Any landholder, farmer, tahsíldár or other person in the possession or management of land, who may have been duly required by a Collector of the

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

supplies for troops, &c.

land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation XI. 1806, to provide supplies for a body of troops about to proceed by land or water through any part of the British territories, or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or nálás intersecting their march; and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience, to the satisfaction of the Collector (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand sikká rupees.

Collector to make summary inquiry.

3. The Collector, or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by vakíl for that purpose;

if he shall fail to attend, either in person or by vakíl, the summary inquiry shall be conducted *ex parte*, and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

Fine how levied.

4. The Collector or other officer who may adjudge a fine under this Regulation, shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue.

Proviso as to appeal.

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the Board of Revenue in whose jurisdiction the district may be situate, and sufficient security be tendered for performing the judgment of the Board upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board.

Petition of appeal against fine.

5. Appeals from the orders of Collectors or other public officers, adjudging fines under this Regulation, may be preferred either immediately to the proper Board, or through the officer by whom the fine may have been adjudged; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board.

Limitation of appeal.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the Board by whom the case may be cognizable.

REGULATION XI of 1825.

Passed on the 26th of May 1825.

A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by Alluvion, or by Dereliction of a River or the Sea.[a]

Preamble.

1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.

The Court of Sadr Díwání Adálat, with a view to ascertain the legal provisions of the Muhammadan and Hindú laws on this subject, called for reports from their law-officers of each persuasion, and on consideration of the reports furnished by the law-officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Díwání Adálat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William.

Claims and disputes as to alluvial lands to be decided by usage when clearly recog-

2. Whenever any clear and definite usage of shikast paiwast, respecting the disjunction and junction of land by the encroachment or recess of a river, may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that

[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

nized and established.

the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established, claims how decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Land gained by gradual accession from recess of river or sea.

4. *First.*—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamíndár or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever.

Extent of interest in increment, of person in possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed, to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation II. 1819, or of any other Regulation in force.

Nor if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khudkást raiyat, holding a maurúsí istimrárí tenure at a fixed rate of rent per bígha, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

When river by sudden change of course intersects estate.

Second.—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition, of the land so removed.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Chars thrown up in navigable rivers.

Third.—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be

fordable, it shall, according to established usage, be at the disposal of Government.

Property therein when channel fordable.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.

Chars, &c., thrown up in small shallow rivers.

Fourth.—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation.

Fifth.—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion, or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or if not, by general principles of equity and justice.

Encroachments on beds of navigable rivers and other obstructions.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent zila and city Magistrates, or any other officers of Government, who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

REGULATION XX OF 1825.

Passed on the 3rd of November 1825.

A Regulation for declaring the Jurisdiction of the Military Courts-Martial and Courts of Requests, constituted by a recent Act of Parliament, and for modifying some Parts of the existing Regulations in conformity thereto.[a]

Preamble.

1. BY an Act of Parliament passed in the fourth year of the reign of his present Majesty King George the Fourth, entitled "an Act to consolidate and amend the laws for punishing mutiny and desertion of officers and soldiers in

[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

the service of the East-India Company," provision is made for the trial by courts-martial of European British subjects, either actually serving as officers or soldiers or otherwise attached to the army, when accused of murder, rape, robbery, theft and other offences committed in a foreign territory, or at any place within the territories subject to the Presidency of Fort William, situate at a greater distance from that Presidency than one hundred and twenty miles, as well as for investing military Courts of Requests, constituted according to the provisions of the aforesaid Act, with the cognizance of actions of debt, and all personal actions, to an amount not exceeding four hundred rupees, against any British commissioned or non-commissioned officer or soldier, or other persons amenable to the provisions of the Act, at places situated beyond the jurisdiction of the Court of Requests in Calcutta;

it has in consequence become necessary to rescind or modify certain parts of the Regulations in force which relate to the apprehension or trial of British subjects accused of criminal offences, and to the cognizance of petty offences, and actions of debt by a military tribunal;

the following rules have been accordingly enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

Procedure as to European British subjects attached to army serving within certain limits, when apprehended by Magistrates on criminal charges.

2. *First.*—In modification of the rules contained in Regulation II. 1796,[a] section 19, Regulation VI. 1803,[b] and Regulation XV. 1806,[c] it is hereby provided, that if any European British subject who shall be apprehended by or brought before a Magistrate on a charge of murder, rape, robbery, theft or other criminal offence, shall be found, on his apprehension, to have been, at the time when the offence laid to his charge may have been committed, a commissioned or non-commissioned officer, or soldier, serving with any body of troops in the service of His Majesty or of the Honorable East-India Company, at any place not within the territories subject to the Presidency of Fort William, or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid Presidency, or to have been, when the offence was committed, a person attached to such body of troops in any of the capacities specified in sections 45 and 60 of Statute IV Geo. IV, Cap. LXXXI,[d] it shall be the duty of the Magistrate by whom such person so accused may be apprehended, instead of proceeding to hear evidence to the charge as directed in such cases in the Regulations above-mentioned, to deliver over such person so charged, together with a statement of the charge brought against him, to the commanding officer of the regiment, corps or detachment

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a, c Repealed by Act No. XVII of 1862. b Repealed by Act No. VIII of 1868.
d Repealed by 3 & 4 Vic., c. 37, s. 59.

to which such accused person shall belong, or to the commanding officer of the nearest military station, for the purpose of his being brought to trial before a court-martial under the provisions of the said Act of Parliament.

Magistrates to assist in apprehension of persons triable by court-martial, when accused of criminal offences.

Second.—It shall further be the duty of every Magistrate, on a written application being made to him for that purpose by the commanding officer of any regiment, corps or detachment stationed or employed as specified in the preceding clause, to use his utmost endeavour for the apprehension of any British officer, non-commissioned officer, soldier or other person of the description therein alluded to, who may have been charged with the crime of murder, rape, robbery, theft or other criminal offence, and also to give his assistance, and that of the officers under his control, in securing the person so accused.

Magistrates to enforce process for attendance of witnesses, &c., before courts-martial, on application.

Third.—It is hereby declared, that it shall be competent to the Judge-Advocate-General or Deputy Judge-Advocate, or other person appointed to conduct the proceedings of any court-martial assembled for the trial of offences under the provisions of the said Act of Parliament, to transmit to the Magistrate of the zila or city within whose jurisdiction persons whose attendance before such court-martial is required may reside, any warrant, summons or other process for the attendance of such person;

and it shall be the duty of such Magistrate who may be so applied to, to give his assistance and that of the officers under him in the due execution of such process, and generally to aid and assist in the execution of all processes issued by such courts-martial.

Magistrates not to inquire into criminal charges preferred against certain British subjects.

Fourth.—The several zila and city Magistrates are hereby prohibited from receiving and inquiring into any criminal charge of the nature described in section 2 of Statute IV Geo. IV, Cap. lxxxi, which may be preferred to them against any British commissioned or non-commissioned officer, soldier or other person attached to the army, who may have been regularly brought to trial under the provisions of the said Act, and acquitted or convicted by the sentence of a court-martial of such offence;

provided however that in any case wherein it may be ascertained by the Magistrate, on due inquiry, that any person accused of such criminal offence, who may be subject to trial by Court-martial, has not been brought to trial for such offence before a Court-martial, and that no effectual proceedings have been taken, or have been ordered to be taken, against him, then and in that case it shall be the duty of the Magistrate to report the circumstance for the information and orders of the Governor General in Council, who, if it appear to him proper so to do, will direct the case to be proceeded upon in the ordinary course of law; and the Magistrate, if so authorized, shall be competent to proceed against the offender under the provisions of the Regulations hitherto in force.

Proceeding against British subjects accused of criminal offences when not attached to army or triable by Court-martial.

Fifth.—Provided always, and it is hereby declared, that nothing contained in the foregoing clauses shall be held to restrict the Magistrates of districts, either in their ordinary capacity of Magistrates or as His Majesty's Justices of the Peace duly qualified, from proceeding under the rules heretofore in force against all British subjects charged with criminal offences, who may not be attached to the army, or subject to be tried for such offences by a Court-martial.

Provisions not to apply to troops in Fort William or at other place not situated above 120 miles from Presidency.

Sixth.—It is hereby further declared that the provisions of this Regulation, as far as the same relate to criminal offences committed by any commissioned or non-commissioned officer, soldier or other person attached to the army, being British subjects, shall not be held to apply or be in force when such offences shall be committed by persons of the above description, attached to any body of troops which may be stationed in the garrison of Fort William, or at Barrackpúr, Midnapúr, Dam-Dam or at any other place within the territories under the Presidency of Fort William, which may not be situated at a greater distance than one hundred and twenty miles from the said Presidency;

and in all such places, the powers and authorities vested by law in the Magistrates and Justices of the Peace shall continue to be and remain in full force and effect.

3. [*Repealed by Act No. XI of 1841.*]

Procedure when witness refuses to be sworn before military Court.

4. Whenever a witness in attendance before a general Court-Martial, or other military Court duly authorized to administer an oath, shall refuse to be sworn, and the Court shall be of opinion that the testimony of such witness is essential, and that there is no sufficient reason to exempt him from taking the oath, the Judge-Advocate-General, or other officer conducting the proceedings of the Court shall be authorized to forward such witness, with a written statement, to the zila Magistrate or joint Magistrate within whose jurisdiction the Court may be held;

and the Magistrate or Joint Magistrate is hereby directed to make such inquiries into the case as may satisfy him that the witness ought or ought not to be exempted from taking an oath.

If the Magistrate or Joint Magistrate shall be of opinion that no sufficient grounds exist for exempting the witness from taking the prescribed oath, he shall proceed in the same manner as if the refusal to give evidence on oath had taken place in his own Court;

on the other hand, if he shall be of opinion that the witness ought not to be compelled to take the oath, he shall certify the same to the Judge-Advocate-General or other officer above referred to, and shall not impose any penalty on such witness.

REGULATION III OF 1827.

Passed on the 1st of November 1827.

A Regulation for modifying and amending the Rules in force relative to the Law Officers and Ministerial Native Officers of the Courts of Judicature, who may be guilty of Corruption or Extortion.[a]

Record of criminal conviction sufficient for compelling refund of property corruptly taken or extorted.

5. From and after the date of this Regulation it shall not be necessary for any party from whom money or property may have been corruptly taken or extorted to institute a civil action for the recovery thereof; but on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by a Court of Circuit, or the Nizámat Adálat, shall be received as sufficient authority for enforcing the refund of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court, on the stamp-paper prescribed for miscellaneous petitions.

REGULATION V OF 1827.

Passed on the 27th of December 1827.

A Regulation for modifying the Rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.[b]

Preamble.

1. WHEREAS it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice, that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue, the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Modification of Regulations regarding management of estates under attachment.

2. The rules contained in sections 5 and 6, Regulation V. 1799,[c] and clauses five and six, section 16, Regulation III. 1803,[d] regarding the administration and management of estates under orders of the zila Courts, are hereby declared subject to the following modifications.

Issue of precept for holding estates

3. Whenever the zila Courts may deem it just and proper, under the provisions of the several Regulations above-mentioned, to provide for the admin-

a, b Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

c See *supra*, p. 18.

d Repealed by Act No. XIX of 1873.

under attachment and for appointing managers.

istration or management of landed property, the Court shall issue a precept to the Collector of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof;

provided however that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Precept to state property included in attachment.

4. The precept of the Zila Court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

REGULATION VII OF 1828.

Passed on the 12th of September 1828.

A Regulation for amending the provisions of Regulation XV. 1795, and for defining the authority of the Rájá of Benares in the Mahálś therein referred to.

Preamble.

1. BY an arrangement concluded in the year 1794 with Rájá Mahip-Narain Singh, the administration of justice in the jágírs of Bhardoi, Kera Mangror, and that part of pargana Kaswar or Gangápúr, which is the Rájá's family zamíndárí, so far as relates to matters connected with the revenue, was separately provided for, and in conformity thereto the Courts of Justice were restricted, by Regulation XV. 1795,[a] from taking cognizance of any such causes.

The management of these mahálś was committed to the Rájá, with a view to the maintenance of his honour and dignity, but it was to be conducted in concert with and under the advice of the Collector, and with an appeal direct to the Governor General in Council; an arrangement which was obviously intended to secure to the population the observance of the same principles of administration, and the same recognition of rights by which the Government had engaged to adhere in its dealings with the rest of its subjects throughout the Province.

[a] See *supra*, p. 5.

Inconveniences however having been experienced from the absence of specific rules for the guidance of the Rájá, in the exercise of the privileges thus conferred upon him, and the system having in other respects failed to accomplish the objects intended by it, the following provisions have been enacted to be in force throughout the whole of the mahâls in question from the date of their promulgation.

Regulations modified.

2. Clause sixth, section 17, Regulation II. 1795,[a] section 8, Regulation V. 1795,[b] and Regulation XV. 1795,[c] are hereby declared subject to the following modifications.

Superintendence of mahâls vested in Government officer.

3. The superintendence of the mahâls above-mentioned shall be vested in such officer as the Governor General in Council may, from time to time, by an order in Council, appoint.

Administration of justice in revenue matters.

4. The administration of justice in all matters connected with the revenue shall continue to be conducted through the agency of the Rájá, under the restrictions herein provided;

Proviso.

but the reservation of this privilege shall not be understood as divesting the population of any of the rights and interests connected with the occupation, possession or transfer of land, whether by sale, gift or inheritance, or the produce of it, which immemorially belong to them, and are enjoyed by similar classes throughout the rest of the Province.

Settlement of lands to be made by Rájá, under general rules in force.

5. *First.*—No mufassal or detailed settlement having been formed within the mahâls in question by the authority of Government, the assessment of the land, and the settlement of the several villages comprised in them, shall be made through the channel of the Rájá, who is to be guided in all matters relative thereto by the general rules in force within the Province of Benares, applicable to such cases.

Rules for selecting parties to be admitted to engage for payment of revenue.

Second.—In the selection of parties to engage, those individuals shall be considered entitled to preference, who, had a detailed settlement been extended to these mahâls under the Regulations of 1795, would have been recognized as zamíndárs.

Such individuals shall be recorded under the designation of ráís, and the tenures so belonging to them shall be considered heritable and transferable, subject to the conditions in regard to the payment of the jama assessed upon them, and under which they may be admitted to engagements.

When there may be no ráís entitled to claim admission, or where the latter may refuse to engage on just terms, the settlement shall be made for a fixed period with farmers, unless the Rájá should prefer making a raiyatwárí settlement, and collecting the public dues, through his own officers, immediately from the raiyats

[b] Repealed by Act No XIX of 1873.

[c] See *supra*, p. 5.

Rules for fixing assessment of málguzárí lands.

Third.—The assessment of all lands not entitled to be considered rent-free, under the rules contained in Regulation XLI. 1795,[a] shall be fixed with reference to their produce and capability, as ascertained at the time when the revision of the settlement may be made.

But the assessment shall not be raised above the amount heretofore paid, unless it shall clearly appear that the nett profits derived from the land, by those who may be entitled to share in them, would, under the usage of the Province and the rules applicable to such cases, authorize the increase demanded.

Effect of admission to engagements on rights or interests of co-sharers or other tenants.

Fourth.—In admitting particular parties to engagements, such parties shall not be considered as invested with any rights over their co-sharers or undertenants not previously possessed by them, excepting in so far as may be authorized by the Regulations for realizing the public revenue;

all questions therefore between pattídárs and sharers, inheriting or claiming to inherit joint or distinct portions of a tenure, or the produce thereof, shall, notwithstanding such admission, be considered open to adjustment on the principles observed in similar cases throughout the Province, and all questions regarding the right to possession of khúdkásht and chhapparband raiyats, shall be adjusted on the same principles.

Points to be ascertained and recorded on making or revising settlements.

Fifth.—It shall be the duty of the Rájá, on occasion of making or revising settlements of land-revenue in any of the maháls referred to in Regulation XV. 1795,[b] to unite with the adjustment of the assessment, and the investigation of the extent and produce of the lands, the object of ascertaining and recording all material points connected with the rights, interests and privileges of the various classes of his tenantry.

His proceedings therefore shall embrace the formation of as accurate a record as possible of all persons found in possession of the soil, with a specification of the nature and extent of the interests respectively enjoyed by them.

The record shall likewise specify the rates per bígha of each description of land or kind of produce in every distinct village.

All lákhiráj tenures shall, at the same time, be carefully registered, with a detail of every particular connected therewith.

The proceedings shall likewise contain the names of the patwárís and village-watchmen, with a statement of the amount and nature of the allowance assigned to each.

Rules for estates held in joint property.

Sixth.—In cases where two or more persons may possess a joint property in any mahál, or in the rent or produce thereof, or in cases where such property may be separately possessed by parties subject to common obligations,

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[a] Repealed by Act No. XIX of 1873.

[b] See *supra*, p. 5.

it shall be competent to the Rájá either to make a joint settlement with the parties collectively, or with a portion of them selected to undertake the management as village-málguzárs; due regard being paid to the wishes of the co-parceners, who, until regularly separated, shall continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue at the rates and in the mode heretofore in use or otherwise provided for by the Regulations for the Province of Benares.

Responsibility of parties under engagements, and of pattídárs and sharers.

Seventh.—When parties enter into engagements who do not possess the entire proprietary right, but may be elected as managers by the co-parcenary in general, the non-engaging parceners shall not be held answerable for the default of those individuals, save and except the portion of rent or revenue demandable from them respectively.

Disputes between them how determined.

The rights and interests, distinct or common, of the pattídárs or sharers shall not be prejudiced in other respects by such engagements, and all disputes between the said sharers and the engaging proprietors shall be determined according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice, and the laws, customs and usages of the Province.

Proprietary rights in land may be transferred by sale, gift, mortgage or otherwise.

6. *First.*—All proprietors of land in the Province of Benares, being privileged to transfer to whomsoever they think proper, by sale, gift, mortgage or otherwise, their proprietary right in the whole or any portion of their respective estates, provided that such transfers be conformable to the Hindú or Muhammadan laws, according to the religious persuasions of the parties, and to the Regulations in force, it is hereby declared that all such assignments, within the tracts to which this enactment refers, shall be held equally valid, subject to the conditions in regard to leases, and the allotment of jama prescribed by the Regulations;

Transfers to be notified to Rájá.

provided always that the same be duly notified to the Rájá, otherwise the consequences of omitting to make such notification on similar occasions to the Collector will, in like manner, attach to all such transfers; the rules and restrictions applicable to Collectors being also applied to the Rájá, subject to the orders of the Superintendent, who shall, in this behalf, possess and exercise the powers and authority of the Board of Revenue.

In cases of transfer or inheritance, Rájá to record mutation, &c.

Second. In all cases, either of transfer or inheritance, the Rájá, on application being made for that purpose, shall proceed to record the mutation, and shall take such other steps for securing the rights and interests both of the public and of individuals, as the Collectors are required to do on similar occasions in the Benares Province.

Decision of Rájá subject to revision.

7. The decision of the Rájá or his officers, on all points connected with the foregoing provisions, shall undergo the revision of the Superintendent, to whom

the whole of the proceedings on the settlement or transfer of any estate shall be certified, and who, after calling for such further information as may appear necessary, shall confirm, modify or annul the same as he thinks proper; and the orders thus passed by the Superintendent shall be final, unless altered or set aside by the Governor General in Council.

Rules for realising public revenue.

8. The following rules are prescribed for the guidance of the Rájá and his officers, in realising the public revenue.

Regulations in force at Benares, for realising public revenues, extended to tracts referred to in Reg. XV. 1795.

9. The Regulations at present in force within the Province of Benares, for enabling proprietors and farmers of land to realise their rents with punctuality, for prescribing the process by which the Revenue Authorities are to collect the revenue payable to Government from the lands, for the imprisonment of defaulters, and for securing the ultimate recovery of arrears by a sale of the landed property from which it may be due, are hereby extended, as far as they may be applicable, to the tracts referred to in Regulation XV. 1795.[a]

Rájá authorized to exercise certain powers of Collector.

10. Exclusive of the powers vested in the Rájá as zamíndár, by which he may distrain and bring to sale, in the mode prescribed by the Regulations, the personal property of under-zamíndárs, farmers, raiyats or other description of landholder, for arrears of rent or revenue, he is hereby moreover authorized, as far as regards the collection of the same, to exercise the powers of a Collector, as defined in the Regulations, within the tracts in question, subject to such restrictions and responsibility as may be now or hereafter imposed by this or any future enactment.

Sale of lands for arrears of revenue, &c., how held.

11. Whenever it may be necessary to resort to the sale of lands for the recovery of arrears of revenue, or whenever a sale of lands may be required in satisfaction of the decrees of the Courts of Judicature, the sale shall be held in the presence of the Rájá or his deputy, either in the public kachahrí or such other open or convenient place within the pargana to which the lands belong as may be specified in the advertisement, and the course of proceeding directed in regard to sales by Regulation XI. 1822[b] shall be considered applicable, and the validity of such sales held contingent on the fulfilment of the several conditions therein specified.

Powers of Boards of Revenue, in regard to land-sales and collection of revenue, vested in Superintendent.

12. The whole of the powers which are exercised by the Boards of Revenue over the Collectors, in regard to sales of land, as well as in all matters relative to the collection of public revenue, are hereby vested in the Superintendent, and the Rájá shall consider himself, in the exercise of the privileges with which he is entrusted, as standing in the same relation towards that officer as the Collectors at present stand towards the Board.

Appeal from orders of Superintendent.

13. From the orders of the Superintendent in all such cases there shall be no appeal but to the Governor General in Council, and the civil Courts are not

[a] See *supra*, p. 5.

[b] Repealed, except section 38, see *supra*, p. 67.

competent to take cognizance of any complaint, from any party soever, contesting the validity of a sale, or claiming rights or interests connected with land, or the rents thereof, within the tracts in question.

Complaint against Rájá and his officers for breach of rules.

14. All complaints of a breach of the rules herein prescribed for the guidance of the Rájá and his officers, in the exercise of the powers thereby entrusted to them, or of unnecessary severity in the execution of them, are declared cognizable by the Superintendent, who shall cause substantial justice to be rendered to the parties in the same manner as would have been done under the Regulations, had such complaints been cognizable by the regular Courts;

provided only that when the offence alleged would authorize a criminal prosecution, the complaint shall be referred to the Magistrate, who will proceed to the decision thereof under the Regulations in the same manner as if it had been originally preferred to him.

Certain offences to enforce payment of arrears of rent strictly prohibited.

15. Torture, personal violence, and every description of corporal punishment to enforce the payment of arrears of rent or revenue, within the tract in question, are hereby strictly prohibited; and any one offending against this prohibition shall, on the complaint of a person so punished, be liable to prosecution before the criminal Courts, and shall be dealt with, on conviction, as the Regulations require in such cases.

Native Commissioner to be maintained by Rájá in each pargana to take cognizance of revenue-causes.

16. In order to secure for the inhabitants of these mahál the administration of civil justice on the principles in force throughout the rest of the Province, a Native Commissioner shall be maintained by the Rájá in each of the parganas referred to in Regulation XV. 1795[a] for the purpose of taking cognizance, in the first instance, of the revenue-causes hereafter specified.

Nomination of individuals made by Rájá, but confirmation to rest with Superintendent.

17. The nomination of individuals to the office of Native Commissioner will be made by the Rájá, but previous to such appointments taking effect, he shall communicate what information he may have obtained regarding the age, character and past employment of the individuals in question, to the Superintendent, who shall withhold his concurrence in cases of notorious bad character, or incapacity, having regard however, as far as possible, in the mode of doing so, to the Rájá's honour and dignity.

Removal of Native Commissioner from office.

18. No Native Commissioner appointed under this Regulation shall be removed from office without sufficient cause; and in all cases of removal, the Rájá shall act in concert with, and by the advice of, the Superintendent.

Liability to criminal prosecution.

19. The Native Commissioners shall be liable to a criminal prosecution for corruption, extortion or other gross misdemeanour; and on conviction before the Court of Circuit, shall be subject to fine and imprisonment, proportionate to the nature and circumstances of the case.

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[a] See *supra*, p. 5.

Power and authority of Native Commissioner.

20. Persons invested with the powers of a Native Commissioner under this Regulation are authorized to receive, try and determine all suits preferred to them, against any inhabitant of their respective jurisdictions, relative to land of every description, or the rent, revenue or produce thereof, situated therein, provided the cause of action shall have arisen within the period of twelve years previously to the institution of suits.

Rules for guidance of Native Commissioners.

21. In receiving, trying, and determining such cases, the Native Commissioners shall be guided by the rules contained in Regulation XXIII. 1814[a]; and in points not expressly provided for in that Regulation, they shall observe as nearly as may be practicable the rules prescribed for the guidance of the zila and city Courts in the trial and decision of civil suits.

Exception.

22. The rule which prohibits Native judicial officers from taking cognizance of cases in which a British subject, or a European foreigner, or an American, may be a party, shall not be held applicable to the Native Commissioners appointed under this Regulation.

Native Commissioners to execute their decisions.

23. The decision of the Native Commissioners shall be executed by themselves, under the rules prescribed in the general Regulations for the execution of decrees; provided however that if the case be appealed, the Commissioner shall be guided by such instructions relative thereto as he may receive from the Superintendent.

Revision of proceedings of Native Commissioners.

24. The proceedings of the Native Commissioners shall be subject to the revision of the Superintendent, who, in the event of an appeal being preferred to him within the period of six months from the date of any such decision, will call for the papers, and after directing such further investigation to be held as he may judge necessary, will confirm, modify or annul the order or decision of the Native Commissioner as may appear proper; provided always, that it shall be competent to the Governor General in Council to supersede the order of the Superintendent, on being referred to by either party for that purpose.

Penalties for resistance of process.

25. The penalties prescribed by the Regulations for resistance of process in revenue or judicial matters, are hereby declared applicable to all cases of the same nature arising out of the process provided for by this enactment.

Revenue and judicial administration of maháls how regulated.

26. It is hereby further declared and enacted, that, except when otherwise directed by the foregoing provisions, the revenue and judicial administration of the maháls herein referred to shall be regulated by the principles and spirit of the existing Regulations, and where those may not be applicable, by equity and good conscience.

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[a] Repealed by Act No. XVI of 1868.

REGULATION XVII OF 1829.

Passed on the 4th of December 1829.

A Regulation for declaring the practice of satí or of burning or burying alive the widows of Hindús, illegal, and punishable by the Criminal Courts.[a]

Preamble.

1. THE practice of satí or of burning or burying alive the widows of Hindús, is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindús as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those in which it has been most frequent, it is notorious that, in many instances, acts of atrocity have been perpetrated, which have been shocking to the Hindús themselves, and in their eyes unlawful and wicked.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Satí declared illegal and punishable.

2. The practice of sati, or burning or burying alive the widows of Hindús, is hereby declared illegal, and punishable by the criminal Courts.

Zamíndárs, &c., responsible for immediate communication to Police of intended sacrifice.

3. *First.*—All zamíndárs, taluqdárs or other proprietors of land, whether málguzárí or lákhiráj; all sadr farmers and under-renters of land of every description; all dependent taluqdárs; all náibs and other local agents; all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards; and all mandals or other head-men of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest Police-station of any intended sacrifice of the nature described in the foregoing section; and any

[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

Penalty in case of neglect.

zamíndár or other description of persons above-noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment, to be confined for any period of imprisonment not exceeding six months.

Police how to act on receiving intelligence of intended sacrifice.

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the Police-dárogha shall either repair in person to the spot, or depute his muharrir or jamadár, accompanied by one or more barkandázes of the Hindú religion, and it shall be the duty of the Police-officers to announce to the persons assembled for the performance of the ceremony, that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the criminal Courts.

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the Police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and in the event of the Police-officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

How to act when intelligence of sacrifice does not reach them until after it has taken place.

Third.—Should intelligence of a sacrifice declared illegal by this Regulation, not reach the Police-officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

REGULATION V OF 1830.

Passed on the 9th of June 1830.

A Regulation for amending the Provisions of Regulation VI. 1823, and for providing more effectually for enforcing the Execution of Contracts relating to the Cultivation and Delivery of Indigo-plant.[a]

Preamble

1. WHEREAS the rules contained in Regulation VI. 1823 (extended to the

[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

Provinces of Orissa, Bihár and Benares, and to the Ceded and Conquered Provinces by Regulation V. 1824[a]) for enforcing the execution of contracts relating to the cultivation and delivery of indigo-plant, have been found in a great measure ineffectual; and whereas it is deemed just and proper to extend the penalties prescribed by section 5, Regulation VII. 1819[b], to contracts for the cultivation of indigo-plant, and to provide for the punishment of persons convicted of damaging indigo-crops;

and whereas it is desirable in certain cases to afford persons who may be unwilling to renew their contracts for the cultivation of indigo the means of obtaining, by summary process, a release from their engagements; the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

2. [*Repealed by Act No. VIII of 1868.*]

3. [*Repealed by Act No. XVI of 1835.*]

4. [*Repealed by Act No. III of 1857.*]

Procedure by persons wishing to be released from their engagements.

5. *First.*—Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account, shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the zila Court;

and the Judge, after a summary inquiry, in the presence of the parties or their authorized agents, into the merits of the case, shall, on proof of the expiration of the contract, and of there being no balance due from the petitioner, or if the petitioner shall deposit in court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf.

Procedure if proprietor objects to receive balance.

Second.—If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.

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[a] Repealed by Act No. XV of 1874.

[b] Repealed by Act No. XVII of 1862.

REGULATION VI OF 1831.

Passed on the 1st of November 1831.

A Regulation for the Appointment of one or more Judges, to be ordinarily stationed at Allahabad, for the purpose of exercising the Powers and Authority of the Sadr Díwání and Nizámat Adálat, within the Province of Benares, the Ceded and Conquered Provinces, including the Districts of Mírat, Saháranpúr, Muzaffarnagar and Buiandshahar, which are now subject to the Chief Commissioner at Delhi, and the Powers and Authority of the Nizámat Adálat in the Province of Kumáon and the Ságar and Narbada Territories.

Powers and duties of Courts.

6. [a] The Courts of Sadr Díwání and Nizámat Adálat for the Western Provinces, constituted by this Regulation, shall possess, within the divisions, Provinces and territories subject to their jurisdiction, all the powers vested under the existing Regulations in the Courts of Sadr Díwání Adálat and Nizámat Adálat, constituted by section 2, Regulation VI.[b] and section 67, Regulation IX.[c] 1793, and shall perform all the duties required to be performed by those Courts under Regulations VI. and IX. 1793, and under all other Regulations which have been passed and published in the mode prescribed by Regulation XLI. 1793 [d], subject to all the modifications and provisions contained in such Regulations, and to the following further provisions.

Courts to be open Courts and how held.

7.[e] *First.*—The Courts of Sadr Díwání and Nizámat Adálat for the Western Provinces are to be open Courts, and to be holden as directed in section 3, Regulation VI.[f] and section 66, Regulation IX.[g] 1793, as soon as a convenient place shall have been provided for the purpose.

Rule in cases requiring concurrent opinion of two Judges.

Whenever and so often as only one Judge may be present with the Courts, or if any difference of opinion should arise when only two Judges may be present in either Court, in any matter requiring under the existing Regulations the concurrent voices of two Judges, the question shall be referred, as the case may be, for the determination of one of the Judges of the Court of Sadr Díwání or Nizámat Adálat stationed at Calcutta.

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a Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

b, f Repealed by Act No. XXIX of 1871.

c, g Repealed by Act No. XII of 1873.

d Repealed by Act No. VIII of 1868.

e Repealed, so far as it relates to the Court of Sadr Díwání Adálat, by Act No. VIII of 1868.

Second.—Provided moreover that in such case it shall be sufficient that the Judge to whom the point may be referred should form and record his judgment on a careful perusal and consideration of the proceedings, and without requiring the attendance of the parties or their vakíls. Proviso.

8. [*Repealed by Act No. XVI of 1874.*]

9. The powers and authority heretofore vested in the Nizámat Adálat stationed at Calcutta over the Province of Kumáon, by Regulation X. 1817,[a] are hereby transferred to the Nizámat Adálat for the Western Provinces. Jurisdiction over Province of Kumáon.

10. The administration of the Police, and of criminal justice in the Ságar and Narbada territories, has been heretofore conducted by British officers under instructions issued for their guidance by the Governor General in Council; but it is hereby declared, that from and after the date of the promulgation of this Regulation, as regards criminal matters, those territories shall be subject to the Nizámat Adálat for the Western Provinces. Jurisdiction over Ságar and Narbada territories.

11. The Commissioner to whom the superintendence of the territories in question is or may be confided, is hereby declared competent to hold trials and pass sentence to the extent permitted by the Regulations to a Commissioner of Circuit (but without reference of the proceeding for fatwa to a Muhammadan law-officer), as well as to exercise all the functions and authorities now exercised by the Commissioners of Circuit under Regulation I of 1829.[b] Duties and authority exercisable by Commissioner for Ságar and Narbada territories.

12, 13. [*Repealed by Act No. XVII of 1862.*]

14. In the conduct of criminal trials, and in all other matters, the Commissioner, as well as the Police-officers, and all other officers acting under his control, shall ordinarily conform to the principles and spirit of the Regulations applicable to such subjects, and shall regularly furnish to the Nizámat Adálat in the Western Provinces all such statements and reports as are prescribed by the existing Regulations to be submitted by the Commissioners of Circuit, or as may be specially prescribed in future by the authority to whom, by this Regulation, they are declared to be subordinate. In criminal matters, Commissioner, &c., to conform to spirit of Regulations, &c.

15. Provided however that it shall be competent to the Governor General in Council to issue any special rules or orders that may, from time to time, be deemed necessary for regulating the process before trial, or the form of trial, to be observed within the territories subject to the Commissioner, as well as to extend or modify the judicial functions vested in the Commissioner, by the preceding provisions. Power to Governor General to regulate sundry matters connected with Commissioner in criminal jurisdiction.

An order or resolution of Government, under the official signature of a Secretary to Government, shall be sufficient authority for such extension or modification.

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[a] Repealed by Act No. X of 1838.

[b] Repealed as to the North-Western Provinces by Act No. XIX of 1873.

REGULATION VIII OF 1831.

Passed on the 1st of November 1831.

A Regulation for amending the existing provisions relative to the Trial of summary suits and claims for arrears or exactions of rent.[a]

Preamble.

1. WHEREAS it has appeared necessary to provide more effectually for the adjustment of suits and claims relating to arrears or exactions of rent, the following rules have been enacted, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Rules which authorize judges to take cognizance of summary suits repealed.

2. Such parts of Regulations VII. 1799, V. 1800, XVIII.[b] 1803, V. 1812, VII. 1813, XIX. 1817, XIV. 1824, or of any other Regulations in force, as authorize the Judges of the zila or city Courts to take cognizance of summary suits or claims relating to arrears or exactions of rent, and to refer the same to the Collector for investigation and decision, are hereby rescinded.

Judicial authorities not to receive such claims except as regular suit.

3. From and after the date of the promulgation of this Regulation, it shall not be competent to the judicial authorities to receive any claims of the nature above adverted to, unless the complaint be preferred as a regular suit, in the mode prescribed by Regulation IV. 1793, and the corresponding enactments.

Summary suits cognizable by Collectors and their decision final, subject to regular suit.

4. Summary claims connected with arrears or exactions of rent shall be preferred in the first instance to the several Collectors of land-revenue, whose decisions in such cases shall be final, subject to a regular suit, unless the ground of appeal be the irrelevancy of the Regulation to the case appealed, on which ground only the Commissioner of Revenue for the division is authorized to receive an appeal, if preferred to him within one month of the date of the summary decision.

On what ground appealable to Commissioner and how dealt with by him.

The Commissioner of Revenue, after receiving the appeal, and calling for the proceedings in the case, shall dismiss the same with costs, if the stated ground of irrelevancy shall not appear to be established.

If, on the other hand, the case should appear to be of a nature not properly cognizable as a summary suit under the provisions of this Regulation, the Commissioner of Revenue shall reverse the irregular judgment given by the Collector, and pass such further orders thereupon as he may think just and proper in pursuance of the Regulations in force, which may be applicable to the circumstances of the case.

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[a] Repealed locally by Act No. X of 1859 still in force in the Non-Regulation districts of the North-Western Provinces.

[b] *Sic. Read* "XXVIII."

Transfer to Collectors of pending summary cases.

5. All summary cases of the above nature which may be depending in the zila and city Courts at the date of the promulgation of this Regulation shall be transferred to the Collectors of the several districts for investigation and decision.

Limitation of regular suits to contest summary awards of revenue authorities.

6. The existing Regulations not providing any limited period beyond which the investigation of a regular suit to contest the justice of a summary award, in matters connected with arrears or exactions of rent, shall be admitted, it is hereby declared, that the admission of regular suits to contest the summary awards of the revenue authorities in such matters shall be restricted to the period of one year from the date of the delivery, or of the tender to the party against whom the award is made, of the Collector's decision.

Stamp-paper on which summary claims may be preferred to Collector.

7. Summary claims of the nature above adverted to, which may be preferred to a Collector conformably to section 4 of this Regulation, shall be written on paper bearing a stamp of one-fourth the value which would have been required had the claim been instituted in any civil Court as a regular suit;

Proviso.

provided however that the Collector shall have a discretion to receive a complaint on paper bearing a stamp of eight annas from any independent taluqdár, farmer or raiyat, if the complainant is *bonâ fide* unable to pay the price of the prescribed stamp, or if the Collector should, for other reasons, consider the indulgence proper.

Stamps for plaints in regular suits for arrears of revenue, if cognizable as summary suits.

8. With a view to give additional encouragement to parties having claims to arrears of rent to prefer regular suits on account of the same, it is hereby declared, that the plaint in all such regular suits, if under the existing Regulations they would have been cognizable as summary suits, may be written on paper bearing a stamp of one-fourth the prescribed value;

Proviso.

provided however that this rule shall not be considered applicable to a suit instituted with a view to set aside a previous summary decision, which suit shall be subject to the ordinary provisions for the payment of stamp-duty.

Collectors may reject summary suit by order on back of petition.

9. *First.*—It is further hereby declared competent to a Collector to whom a summary suit may be preferred under the provisions of this Regulation, to reject the same by a Persian order to be written on the back of the petition, to be returned to the party, referring him to a regular suit;

Reception of such petition as plaint in regular suit.

and the said petition shall be received by the judicial authorities as a petition of plaint in like manner as if the claim had been originally preferred to them in the form of a regular suit.

Powers of Commissioner on summary appeal.

Second.—Provided however that it shall be competent to a Commissioner of Revenue, on summary appeal, to direct the Collector to receive and decide such suits, as well as to give such general instructions relative to the admission or rejection of suits referring to the matters in question, as local or other circumstances may in his judgment render necessary.

Restriction of Collectors' jurisdiction.

10. In modification of the existing rules regarding summary suits, it is hereby provided, that the summary jurisdiction to be exercised by Collectors shall be restricted to the object of enforcing payments of the rents paid in past years, to the entire exclusion of all claims to increase, except on proof of *bonâ fide* written engagements to such increase.

Power of Munsifs appointed under Regulation V. 1831, to award damages for illegal distraint.

11. In those districts in which munsifs may be appointed under the provisions of Regulation V. 1831,[a] those munsifs shall be competent, in addition to the authority now possessed by munsifs generally of receiving, trying, and deciding claims to arrears of rent preferred by regular suit, in like manner to dispose of all claims preferred by under-tenants or others who may be desirous of resisting the distraint of their property or the attachment of their persons, or who may prefer a claim for damages on account of such acts.

Rules prohibiting award of damages by munsifs inapplicable.

The rule[b] *contained in section 13, Regulation XXIII. 1814,*[c] *or any other Regulation, prohibiting the award of damages by munsifs, shall not be considered applicable to such claims.*

Sections 15 and 16, Regulation V. 1812, modified.

12. In modification of the rules contained in sections 15 and 16,[d] Regulation V. 1812, which prescribe that the individual whose property is distrained should give security for instituting a suit to contest the demand, it is hereby provided, that if a part only, and not the whole, of the demand be contested, it shall be competent to the individual whose property is distrained, to release it from distraint on paying a part of the demand, and giving security to contest the remainder.

Reference of summary cases for adjustment and report to tahsíldárs.

13. Whenever, from the great accumulation of suits connected with claims to arrears or exactions of rent, or from any other cause, it shall seem advisable, the several Collectors are hereby authorized, with the previous sanction of the Commissioner of the Division, to refer to the tahsíldárs within their respective districts any such claims, with a view to their being adjusted and reported upon;

Rules for their guidance.

and the several tahsíldárs shall be guided in the performance of this duty by the rules which were declared applicable to the proceedings of Collectors in similar references, prior to the enactment of Regulation XIV. 1824.[e]

Rules as to cases of two or more suits being instituted regarding the same matter.

14. Inconvenience having been experienced from the circumstance of two or more claims regarding the same matter having been preferred to different tribunals, it is hereby provided, that if it should be brought to the notice of the Judge that a suit regarding any matter cognizable under this Regulation is pending in his or in any of the Courts subject to his control, in a matter regarding which a suit had been previously instituted before the Collector, the Judge shall direct such suit to be transferred to the Collector, who in such case is authorized and required to decide both suits.

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a, c Repealed by Act No. XVI of 1868. b Repealed by Reg. V of 1831, sec. 4.
d, e Repealed by Act No. X of 1859.

15. In like manner, if it be brought to the notice of the Collector that a suit is pending before him in a matter regarding which a regular suit has been previously filed in the Judge's Court, he shall suspend his proceedings, and forward the record of the case to the Judge, who will make over both cases to some tribunal subject to his authority, or dispose of the cases himself.

Collectors, when to suspend proceedings and send record to Judge.

16. It shall further be the duty of the Judge and of all the judicial authorities subject to his control, in all practicable cases, to refer suits concerning the same cause of action, and regarding any matter cognizable under this Regulation, to be decided by one and the same tribunal, and the subordinate judicial authorities are required to suspend their proceedings, and to submit them to the Judge, whenever they may have reason to know that another cause concerning the same matter, relating to arrears or exactions of rent, is pending before another Court, or as a summary suit before the Collector.

Judicial authorities to bring before one Court all cases relating to same matter.

17. Provided moreover that in all cases of appeal, the records of cases which can be ascertained to have been decided concerning the same cause of action, and regarding any matter cognizable under this Regulation, shall be produced and read, and that the decision in appeal shall be considered to be equally applicable to all such suits, though not appealed.

In appeal, records of all cases in same matter to be produced and read. Decision to apply to all.

Provided however that in all such cases due notice shall be given to the parties concerned to attend, either in person or by vakíl, to prosecute or defend their several interests.

Proviso

18. In furnishing periodical reports of suits decided and depending, which may have been instituted under this Regulation, and generally in the performance of other duties connected with its provisions, the several Collectors shall be guided by the instructions which they may receive from the Revenue Commissioners or the Sadr Boards of Revenue.

Collectors to be guided by instructions of Commissioners and Sadr Board.

19.[a] The rules contained in section 31, Regulation VII. 1822, are hereby applicable to the decisions passed by Collectors under the provisions of this Regulation.

Rules applied to Collectors' decisions.

20. Such part of clause third, section 23, Regulation VII. 1822, as relates to the execution of awards in cases where a specific sum of money shall be adjudged to be due, or any cost or damage be awarded, is declared equally applicable to the awards which may be made by Collectors under this Regulation.

Rules applied to Collectors awards under Regulation.

21. In modification of clause third, section 8, Regulation IV. 1821, it is hereby declared, that Assistants to Collectors are not competent to exercise the powers vested in Collectors by this Regulation, unless specially empowered by the Governor General in Council.

Assistants to Collectors when to decide suits under Regulation.

[a] Modified by Regulation VII. 1832, section 10, and partly repealed by Act No. XXV of 1837, section 2.

When thus empowered, they shall be competent to decide suits referred to them by the Collector, subject always to such revision or control on his part as he may see fit to exercise, and subject ultimately to an appeal to the Commissioner of Revenue under the provisions of section 4 of this Regulation.

REGULATION XI OF 1831.

Passed on the 1st of November 1831.

A Regulation for vesting tahsíldárs in certain cases with the Powers of Police-officers.[a]

Preamble.

1. WHEREAS by Regulation IV. 1821[b], the Collectors of land-revenue, or other persons exercising their powers, are, in certain cases, authorized to perform the duties of Magistrates; and whereas, with a view to improve the efficiency of the Police, it is expedient that, in districts of the Ceded and Conquered Provinces in which tahsíldárí establishments are maintained subject to the authority of the Collectors, the Governor General in Council be empowered, by an order in Council, to vest the tahsíldárs with the powers at present exercised by dároghas of Police; and whereas it is expedient to modify the existing Regulations regarding the removal of Police-officers, the following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the Provinces aforesaid.

Governor General may authorize tahsíldár to exercise powers vested in Police-dároghas, &c.

2.[c] It shall be competent to the Governor General in Council, by an order in Council, to authorize any tahsíldár or tahsíldárs to exercise the powers vested by the existing Regulations in dároghas of Police and to determine the local limits of their Police-jurisdictions, within which all officers of Police, including the present thána and village-Police-establishments, shall be subordinate to, and subject to the control of, the tahsíldár, in his capacity of chief Police-thánadár.

3. [*Repealed by Act No. XVI of 1854.*]

4. [*Repealed by Act No. XII of 1876.*]

Tahsíldárs, vested with powers of dároghas, may employ chaprásís, &c., on fixed tahsíldárí establishments.

5. The tahsíldárs who may be vested with the powers of dároghas under this Regulation are authorized to employ, when necessary, in aid of the regular Police-establishments, any chaprásís or other persons entertained on their fixed tahsíldárí establishments; and revenue-officers, when so employed, shall be guided in the discharge of their Police-duties by all the rules now in force, or which may hereafter be enacted, for the guidance of the Police-officers.

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[a] See Act No. XVI of 1854, sec. 3, *infra*, p. 107. Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No XV of 1874.

[b] Repealed as to the North-Western Provinces, by Act No XIX of 1873.

[c] See Act No. XVI of 1854, sec. 2, *infra*, p. 107.

But the fixed thána-establishments shall not be employed in the collection of the land-revenues, or in other revenue-duties, except in cases of distraint for arrears of rent or revenue, or such other occasion as by the Regulations in force is now authorized.

Statement to be proclaimed in district where arrangement authorized by Regulation is carried into effect.

6. Whenever the Governor General in Council shall see fit to carry into effect the arrangement herein authorized in any district or part of a district, a statement shall be drawn out specifying the number and extent of the several Police and revenue-jurisdictions, the names and numbers of the officers attached to them, and the head-quarters or thánas, and the out-posts of the several divisions:

this statement shall be drawn out in English, Persian and the vernacular dialects, and suspended in a conspicuous place in the kachahrí of the Collector and Magistrate at the sadr station, and shall be published by proclamation throughout the district.

REGULATION IX OF 1833.

Passed on the 9th of September 1833.

A Regulation to modify certain Portions of Regulation VII of 1822, and Regulation IV of 1828; to provide for the more speedy and satisfactory Decision of Judicial Questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for enforcing the Production of the village-accounts; for the more extensive Employment of Native Agency in the Revenue Department; and to declare the intent of section 5, Regulation VII of 1822, touching claims to Málikána.[a]

Preamble.

1. EXPERIENCE having demonstrated the expediency of modifying certain enactments of Regulation VII of 1822,[b] and Regulation IV of 1828,[c] also of providing a more speedy and satisfactory mode of deciding such judicial questions as may be cognizable by officers of the Revenue Department under those Regulations, and of declaring the intent of the rules regarding málikána promulgated by section 5, Regulation VII of 1822; it having been found expedient likewise that measures should be adopted for enforcing the production of

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a See Act No. XIII of 1848. Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874. Rates on estates in North-Western Provinces in which term of settlement under this Regulation has expired, Act No. XVIII of 1871, section 3. Limitation of suits contesting awards under this Regulation, Act No. XIV of 1859, sections 6, 8; No. IX of 1871, schedule II, No. 44.

b, c Repealed as to the North-Western Provinces by Act No. XIX of 1873.

the village-accounts, and for rendering them accessible to all persons concerned having occasion to examine them; also, that Natives of respectability should be employed in more important trusts connected with the revenue-administration; the following provisions have been enacted, to be in force from the date of their promulgation.

2 *to* **15.** [*Repealed by Act No. XIX of 1873 as to the North-Western Provinces except the territories mentioned in the first schedule.*]

Appointment of Deputy Collectors.

16. It shall be competent to the Governor General in Council to appoint to any revenue-jurisdiction a Deputy Collector, with the powers hereinafter specified.

Persons eligible to office, and how appointed.

17. The office of Deputy Collector shall be open to Natives of India of any class or religious persuasion.

The persons selected shall be appointed by the Governor General in Council, and shall receive their commissions from Government in the usual mode, under the signature of the Secretary in the Revenue Department.

Monthly allowance how fixed, and susceptible of increase.

18. The Deputy Collectors will receive a monthly allowance, to be fixed by the Governor General in Council, and to be susceptible of increase, from time to time, as their conduct may appear to entitle them respectively to such consideration.

19. [*Repealed by Act No. X of 1873.*]

Subordination of Deputy Collectors.

20. The Deputy Collectors appointed under this Regulation are to be in all respects subordinate to the Collector under whom they may be placed, and are required to perform all duties assigned to them by that functionary.

Duties in which Collectors may employ them.

21. It will be at the discretion of the latter officer to employ them in settlement-duties under the provisions of Regulation VII. 1822,[a] in the superintendence of the Government khás mahâls, and generally in the transaction of any other part of the duties of a Collector.

Their proceedings how recorded and how appealable.

22. All proceedings held by a Deputy Collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the Collector, and appealable to the superior authorities in the usual course.

Collector may resume duties committed to them.

23. Provided always, that the Collector is competent to resume the duties which he may have committed to the deputy, assigning his reasons for so doing for the information of the Commissioner.

Interference by Commissioners with arrangements of Collectors

24. Provided also, that the Revenue Commissioners, whenever they think proper, may interfere with any arrangements made by the Collectors for the employment of the deputies, or the distribution of business to be assigned to

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[a] Repealed as to the North-Western Provinces by Act No. XIX of 1873.

those functionaries, subject to the general control vested in the Sadr Board of Revenue or the Government, as the case may be. for employment of deputies.

25. A deputy, appointed under this Regulation, shall not be removeable but for misconduct, and with the sanction of the Governor General in Council. Rules regarding dismissal of Deputy Collectors.

Whenever there may be reason to believe that a deputy is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the local authorities, through the channel of the Sadr Board of Revenue, for the consideration of the Governor General in Council, who shall be competent to suspend him, and order a further inquiry into the conduct of such deputy, or to direct his immediate dismissal, as may appear just and proper.

PART II:

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE NORTH-WESTERN PROVINCES.

ACT No. X of 1836.[a]

Passed on the 11th of April 1836.

1. [*Repealed by Act No. XIV of 1870.*]

2. Whenever the right to indigo-plant may be contested, and an order shall be passed, under the provisions of clause ninth,[b] section 3, Regulation VI. 1823, of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo-plant until he shall have given sufficient security to the satisfaction of the Court trying the case, to make good any claim that shall be ultimately established to such indigo-plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

Security to be given by person desiring to remove indigo-plant ordered to be delivered to him.

3. When a lawful contract shall have been made between a raiyat and another party, by which contract the raiyat shall have bound himself to cultivate indigo-plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the raiyat for the purpose of enabling the raiyat to fulfil such contract, then if any other person, knowing that such contract exists, and that such advance has been made, shall prevail upon the raiyat to break such contract, the party who made the advance, shall be entitled to proceed by civil action against the person who shall have so prevailed on the raiyat, as well as against the raiyat, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit.

Right of suit of person making advances for cultivation or delivery of indigo-plant when breach of contract is induced by third person.

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874

[b] See *supra*, *p.* 71.

Bar of suit for act done to recover debt or secure performance of lawful contract.

Provided always, that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt, or performance of a lawful contract.

Power to examine both plaintiff and defendant in suit, and to award compensation to successful defendant.

4. The Court trying any suit instituted under the provisions of Regulation VI. 1823,[a] of the Bengal Code, or under the provisions of this Act, shall be authorized to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice; and if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

ACT No. XXI of 1836.[b]

Passed on the 19th of September 1836.

Power to create new, and alter limits of existing, zilas.

It shall be lawful for the Governor General in Council, by an Order in Council, to create new zilas in any part of the Presidency of Fort William in Bengal, and to alter the limits of existing zilas.

ACT No. XXV of 1850.

Passed on the 14th of June 1850.

An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII. 1819, and Act IV. 1846.[c]

Preamble.

WHEREAS patnídárs and judgment-debtors fraudulently avail themselves of the provision in section 9, Regulation VIII. 1819, of the Bengal Code, and in section 5, Act IV. 1846,[d] that forfeited deposits at sales of land in execution of decrees or for arrears of rent shall be applied as if they were purchase-money; It is enacted as follows:—

1. [*Repealed by Act No. XIV of 1870.*]

Application of forfeited deposits.

2. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government.

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[a] See *supra*, p. 68.

[b] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

[c] Repealed so far as relates to forfeited deposits of sales of land or any interest in land in execution of decrees, Act No. X of 1861.

[d] Repealed by Act No. XII of 1873.

ACT No. XIX of 1853.

Passed on the 2nd of December 1853.

An Act to amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.

Person absconding, &c., to avoid service of summons, &c., liable for damages.

26.[a] Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded or kept out of the way to avoid being served with such summons, and any person who, being in Court and upon being required by the Court to give evidence, or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way, as aforesaid, to be recovered in civil action.

ACT No. XVI of 1854.

Received the Governor General's assent on the 28th of July 1854.

An Act to amend Regulation XI of 1831 of the Bengal Code.[b]

WHEREAS the provisions of section 3 and section 7 of Regulation XI. 1831,[c] have been found inconvenient; and whereas it is expedient that Regulation XI. 1831, as amended by this Act, should be extended to the whole of the Province of Benares; It is enacted as follows:—

1. [*Repealed by Act No. XIV of 1870.*]

Dároghas of Police subject to tahsíldárs.

2. Wherever any tahsíldár shall have Police-jurisdiction under the provisions of section 2 of the said Regulation XI. 1831,[d] every dárogha of Police hereafter appointed within the local limits of the Police-jurisdiction of such tahsíldár shall be subordinate to, and subject to the control of, such tahsíldár, in his capacity of chief Police-thánadár.

Regulation XI. 1831, as amended, extended to Benares.

3. Regulation XI. 1831, as amended by this Act, shall extend to the whole of the Province of Benares, and all powers vested by the said Regulation in the Governor General in Council, may be exercised by the Lieutenant-Governor of the North-Western Provinces.

[a, b] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

[c, d] See *supra*, p. 100.

ACT No. XII of 1856.

Received the Governor General's assent on the 9th of May 1856.

An Act to amend the Law respecting the employment of Amíns by the Civil Courts in the Presidency of Fort William.[a]

Preamble

WHEREAS the law by which the civil Courts are authorized to employ Amíns upon local investigations is defective, and requires amendment; and whereas, in consequence of the extended jurisdiction which has been given to Munsifs and the change which has been made in the constitution of the office, it is no longer expedient that Munsifs should be employed in the attachment and sale of personal property, nor, except on rare and special occasions, in any of the duties enumerated in sections 50, 51 and 53, Regulation XXIII. 1814[b]; and it is necessary to make provision for the performance of those duties by other agency; It is enacted as follows:—

1. [*Repealed by Act No. XIV of 1870.*]

Appointment of Amíns.

2. In each district, officers to be designated Civil Court Amíns shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries.

The number of Amíns to be employed in each district, and the salaries to be allowed to them, shall be determined by the Local Government, with the sanction of the Governor General of India in Council.[c]

Amíns by whom appointed and to what Courts attached.

3. The Civil Court Amíns shall be appointed by the Judge of the district, and the Judge shall from time to time attach them to the several Courts of the district according as the state of business may require.

Provided that an Amín attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

4. [*Repealed by Act No. X of 1873.*]

Duties of Amíns.

5. The Civil Court Amíns may be employed in any of the following duties:—

i. in investigating or adjusting accounts in any suit or other judicial proceeding:

ii. in making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] Repealed by Act No XVI of 1868.

[c] As to the security to be given by Názirs and Amíns in Civil and Small Cause Courts, see *North-Western Provinces Gazette*, June 17th, 1876, p. 728. Forms of engagement and security-bonds prescribed for Názirs and Amíns, *ibid.*, July 29th, 1876, pp. 934, 935.

matters in dispute, or of ascertaining the amount of mesne profits or damages, in any suit or other judicial proceeding:

iii. in delivering over possession of lands, houses and other immoveable property, in execution of decrees or orders of Court:

iv. in the sale of moveable property, and of houses, gardens and other immoveable property of the kind described in section 3, Regulation VII. 1825[a]:

v. in ascertaining the sufficiency of sureties and the means of persons suing *in formâ pauperis*.

6, 7. [*Repealed by Act No. X of 1861.*]

Expense of Ámíns how charged.

8. Whenever a Civil Court Ámín may be employed on any duty connected with a pending suit, or the execution of a decree, except the sale of property, the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the Ámín such fixed rate *per diem* as may be determined by the Sadr Court.

The amount shall be paid into court by the party at whose instance or for whose benefit the Ámín is deputed, and shall be added to the costs of suit.

When employed to sell property, deduction from proceeds.

9. When a Civil Court Ámín shall be employed to sell property, a deduction at the rate of one anna in the rupee shall be made from the proceeds of the sale.

Expenses, if no sale takes place.

If no sale takes place by reason of the claim being satisfied, or for any other cause, a charge shall be made for the expenses of the Ámín according to the time he may be employed.

A deposit to meet this charge, calculated in the manner prescribed in the preceding section, shall be made before the Ámín is deputed, and shall be returned to the depositor if the sale takes place.

All sums paid for the employment of Ámíns, and all sums deducted from the proceeds of sales, shall be credited to Government.

Power of Civil Courts, North-Western Provinces, to employ Revenue-officers.

10. Nothing contained in this Act shall be held to prohibit the civil Courts in the North-Western Provinces of the Presidency of Fort William from making use of the agency of the Revenue-officers in investigations and adjustments of accounts connected with land paying revenue to Government.

Powers of officers so employed.

Whenever a Tahsíldár, a Náib Tahsíldár or a Peshkár shall be employed in any such investigation or adjustment under the orders of a civil Court, he shall possess all the powers vested in Civil Court Ámíns by section 7 of this Act; and the provisions of the said section shall be applicable to the proceedings held by such officer.

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[a] Repealed by Act No. XVI of 1874.

ACT No. XX OF 1856.

Received the Governor General's assent on the 14th of November 1856.

An Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal.[a]

Preamble.

WHEREAS it is expedient to make better provision for the appointment and maintenance of Police chaukídárs in cities, towns, stations, suburbs and bázárs in the Presidency of Fort William in Bengal; It is enacted as follows:—

Existing assessment to be levied until revised.

1. The monthly assessment levied under Regulation XXII. 1816[b] and Act XV of 1837[c] in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

To what places Act shall apply.

2. The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bázárs in the said Presidency to which the Local Government may, at any time, extend the same by notification in the official Gazette: Provided always that this Act shall not be extended to any agricultural village.

Proviso.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.[d]

Unions may be formed.

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station or bázár, or any part or parts of a city, town, suburb, station or bázár, with any other city, town, suburb, station or bázár, or part or parts of a city, town, suburb, station or bázár; and in such case all the provisions of this Act applicable to a city, town, suburb, station or bázár shall apply to such union.

Government may define limits of cities, towns, &c.

4. For the purposes of this Act the Local Government may define and declare the limits of any city, town, suburb, station, bázár or union, and all occupiers of houses within any such city, town, suburb, station, bázár or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the chaukídárs appointed to be maintained in such city, town, station, suburb, bázár or union.

Houses let to lodgers how assessed.

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travel-

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

[b, c] Repealed by this Act.

[d] See Act No. XXII of 1871, *infra*.

lers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Penalty for removing, &c., name of street or number of house.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mahalla, for the purpose of identifying such house; and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees.

Magistrate to determine number of chaukídárs. Proviso.

7. The Magistrate shall determine the number of chaukídárs to be maintained in any city, town or other such place as aforesaid; but the number of chaukídárs so to be maintained shall not exceed one to every twenty-five houses.

Grades and wages of chaukídárs.

8. The chaukídárs appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Magistrate to determine sum to be raised annually.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town or other such place as aforesaid, for the purpose of maintaining the chaukídárs appointed to be maintained therein, and for the purposes specified in sections 33, 34, 35 and 36 of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Nature of tax to be levied.

10. The tax to be levied in any city, town or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected, of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof.

The Local Government, on the report of the Magistrate and Commissioner of Circuit, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation of tax.

11. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukídár of the lowest grade. If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

Rate how to be ascertained.

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year.

Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

Magistrate may exempt occupiers unable to pay.

13. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same.

Constitution of panchâyats.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchâyat for each such city, town or other place as aforesaid, or, when he may see fit to divide any such city, town or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business or other description of the persons appointed and the period for which the appointment is made.

Every panchâyat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town or other place, or in or near to any such division thereof.

Magistrate may appoint non-resident person to be a member.

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit, to be a member of the panchâyat, notwithstanding such person may not reside or carry on business in or near to such city, town or other place, or in or near to any such division thereof.

Duties of panchâyat.

15. The panchâyat so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town or other place as aforesaid, or any division thereof) for which the panchâyat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business or other description of such occupier, the property occupied and the amount payable monthly by such occupier.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified.

Magistrate's requisition.

The requisition of the Magistrate to the panchâyat to make out such list shall be in the form marked A or B, as the case may be, set forth in the appendix to this Act annexed, or to the like effect.

Panchâyat may revise existing assessment or rate.

16. The panchâyat shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Magistrate may amend and settle assessment or rate as revised.

17. When an assessment or rate shall have been made or revised, as the case may be, the panchâyat shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Assessment or rate to be published.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the appendix to this Act, or to the like effect, and written in the language of the Province in which the city, town or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like notification, at the nearest Police-thána; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to stand good for one year.

Effect of change of occupation before new assessment or rate.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Revised assessment or rate deemed new.

Every assessment or rate which shall be revised according to the provisions of section 16 shall be deemed a new assessment or rate.

Continuance of assessment of past year.

Provided always, that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be republished according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Appeal from assessment or rate.

20. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

Award of costs.

In case the Magistrate confirm the assessment or rate, he may award costs against the appellant.

Decision on appeal. Bar of jurisdiction.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court.

Limitation of appeal.

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of the name of an occupier

under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Commissioner may direct revision of assessment or rate.

21. The Commissioner of Circuit, with the consent of the Local Government, may at any time direct the Magistrate to revise the assessment or rate of any city, town or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

Magistrate may direct revision at any time of year, for reasons stated.

22. The Magistrate may require the panchâyat to revise the assessment or rate at any period during the year; but on every such occasion he shall address a written order to the panchâyat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

Publication of assessment or rate as revised.

23. Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in section 18, shall be prepared and published in the manner therein directed.

Objections.

And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20.

Penalty for refusal to serve on panchâyat.

24. If any person appointed a member of a panchâyat refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees.

If panchâyat refuse or omit to act, Magistrate may assume their functions.

25. If the persons appointed a panchâyat, or a majority of them, refuse or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the panchâyat.

Proviso.

Provided that the functions of the panchâyat shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section.

Residents only bound to act on panchâyat.

26. No person shall be bound to act on a panchâyat unless he shall reside or carry on business within the limits of the district for which the panchâyat is to be appointed.

Duration of panchâyat and limitation of service thereon.

27. Every panchâyat shall be appointed for the period of one year, and no person shall be compelled to serve on a panchâyat for more than one year at a time, or within less than three years after the expiry of previous service; but nothing in this section shall prevent any person from being appointed to serve on a panchâyat at any time whatsoever with his own consent.

Member of panchâyat removeable only on application of rate-payers.

28. If a majority of the persons assessed or rated in any district for which a panchâyat shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the panchâyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the panchâyat.

Vacancies in panchâyat how supplied.

29. If any vacancy shall occur among the members of a panchâyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act.

Panchâyat to report misconduct of chaukídárs, or death or absence.

30. The panchâyat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukídár within the district for which they are appointed, which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukídár or from any other cause.

Appointment and duty of sadr panchâyat.

31. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr panchâyat consisting of not less than five members, who may be selected either from the members of the local panchâyats or from any other residents of the city or town.

It shall be the duty of the sadr panchâyat to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district panchâyats and enquiring into and reporting on appeals preferred against the same.

Appointment and registry of chaukídárs.

32. The chaukídárs to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence and previous occupation of every person so appointed, with the date of his appointment.

Appointment of jamadárs and inspectors.

33. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint such number of jamadárs and inspectors as may be necessary for the supervision and control of the chaukídárs.

Their number.

Provided that the number of these officers shall not be greater than one jamadár to fifteen chaukídárs, and one inspector to sixty chaukídárs.

Appointment of tax-collectors and other establishment.

34. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint one or more tax-collectors or dároghas, and such other servants as may be necessary for preparing or assisting the panchâyat in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records and otherwise carrying out the purposes of this Act.

Security.

The Magistrate shall take from every tax-collector or dárogha such security for the due disposal of the sums collected by him as may be thought necessary.

Contingent expenses.

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses and weapons for the chaukídárs, and for any other contingencies that may seem to him necessary.

Surplus-funds may be devoted to conservancy-purposes.

36. After paying the wages of the chaukídárs, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner of Circuit, appropriate any sum which may be available, to the purpose of cleansing the city, town or place, or of lighting or otherwise improving the same.

Register of assessments.

37. The tax-dároghas shall prepare from the lists hereinbefore mentioned, a register, which shall be attested by the Magistrate or his deputy or assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

Collection of assessment.

38. On such dates as may be fixed by the panchávats for payment of instalments of the tax,[a] the tax-dárogha shall proceed in person, or through some one of his office-establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected, the dárogha shall grant a receipt:

Provided that, with the sanction of the Commissioners of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

Remittance of collections.

39. The tax-dárogha shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the dárogha a receipt for every sum of money so remitted.

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the Chaukídárí Fund of the city, town or place in or on account of which they are collected.

Preparation of summons, &c.

40. The tax-dárogha shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

Report of defaulters to Magistrate.

41. On the tenth day after the date fixed for the payment of instalments of the tax,[b] or as soon after as possible, the tax-dárogha shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in

[a] See Act No. XXII of 1871, s. 3, *infra*.

[b] See Act No. XXII of 1871, s. 4, *infra*.

respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summoning defaulters.

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the kachahrí of the Magistrate within a reasonable time, to be specified in the summons, to show cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

43. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-dárogha, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Sale how conducted.

44. The tax-dárogha shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated.

Proceeds how applied.

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Returns of sale. Costs.

The tax-dárogha shall make a return of all such sales to the Magistrate in the form specified in appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in appendix E annexed to this Act.

Penalty for tax-darogha purchasing at such sales.

45. Any tax-dárogha or other servant appointed under this Act, and any Chaukídár or officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees; and the property shall be confiscated.

Sale of property beyond limits of town, &c.

46. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the Názir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

Goods liable to distress.

47. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear.

Owner of goods to be indemnified by defaulter.

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same.

Limit to distress.

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due.

Penalty for obstructing tax-dárogha in execution of duty.

48. Every person who shall wilfully obstruct or molest any tax-dárogha or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

Magistrates to try complaints against tax-dárogha for extortion, &c.

49. The Magistrates shall receive and try all complaints preferred on oath or solemn affirmation against any tax-dárogha or other person appointed under this Act for extortion, malversation or other misconduct in the discharge of his duty.

Penalty for extortion, &c

On proof of any such offence, the tax-dárogha or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months.

Saving of power to commit.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-dárogha or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Powers, duties, and liabilities of chaukídárs, jamadárs, and inspectors.

50. The chaukídárs, and the jamadárs and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities, of Police-officers as prescribed in the general Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties and liabilities are not inconsistent with, or otherwise expressly provided for by, this Act.

The chaukídárs and the jamadárs and inspectors are in all respects subordinate to the Police-dárogha of the thána within the limits of which they may be employed.

Chaukídárs to wear badges.

51. Every chaukídár appointed under this Act shall wear a badge with a number, and the name of the city, town, place or division for which he is appointed, engraved thereon.

Power of chaukídárs—

to arrest without warrant.

52. Every chaukídár and every jamadár and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest Police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised:

to prevent nuisances:

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets:

to give intelligence of resort of thieves, &c.:

Third.—He shall give immediate intelligence to the Police-dárogha of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace:

to examine and detain suspected persons.

Fourth.—He may stop, examine, and if necessary detain, any person who shall be reasonably suspected at any time of having or conveying any thing stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest Police-station.

Assistance to chaukídárs in making arrests.

53. If a chaukídár or other Police-officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

Chaukídárs, &c., how paid.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukídárs and the jamadárs and inspectors (if any) shall be mustered at the thána to which they are attached, and the Police-dárogha or muharrir of the thána shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukídár in an official register of receipts prepared for the purpose; and the dárogha, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

Punishment of officers for neglect of duty, &c.

55. Any chaukídár and any jamadár or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Suspension or dismissal of Police-officers.

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Fines how disposed of.

57. All fines levied under this Act shall be credited to the Chaukídárí Fund and held available for the purposes of this Act.

58. [*Repealed by Act No. X of* 1872.]

Control over proceedings of Magistrate and Commissioner.

59. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner of Circuit; and all the proceedings of the Commissioner of Circuit shall be subject to the control of the Local Government.

Act not to apply to Calcutta.

60. Nothing contained in this Act shall extend to the town of Calcutta.

Interpretation-clause.

61. Wherever in this Act, or in any appendix thereto, there is nothing in the context requiring a different interpretation—

the word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate:

the word "House" shall include any shop or warehouse:

the word "Bázár" shall mean any place of trade where there is a collection of shops or warehouses;

the word "District" shall mean a city, town, bázár or union, or any division thereof:

the expression "Police-dárogha" shall include any Tahsíldár or Náib-tahsíldár entrusted with Police-jurisdiction.

APPENDIX A.

To

[*Here insert the names, places of abode, business or other description of the pancháyat.*]

I do hereby require you, the panchayat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equitable assessment upon the several occupiers of houses, shops and buildings in the (*here describe the city, town, place or division,*) for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a chaukídár of the lowest grade*).

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act,

you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

APPENDIX B.

To

[*Here insert the names, places of abode, business or other description of the panchâyat.*]

I do hereby require you, the panchâyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equal rate upon the several occupiers of houses, shops and buildings, and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on and other

expenses authorized by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding five per cent. of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description of the person rated, the annual rateable value of the property, the annual rate, and the quota payable monthly; and may be in the following form, or to the like effect :—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

APPENDIX C.

An assessment (*or rate, as the case may be,*) made for (*here describe the city, town, village or other place or division for which the rate is made*) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukídárs for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (*or* quarterly) assessment (*or* rate).

Whereas the above assessment (*or* rate, *as the case may be,*) has been duly made pursuant to Act XX of 1856, and has been revised and settled by me, the undersigned Magistrate of , the several persons whose names are included in the said assessment (*or* rate) are hereby required to pay the monthly (*or* quarterly) contributions set opposite to their names with regularity to the tax-dárogha or other person appointed by the Magistrate to receive the same (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or* rated) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

APPENDIX D.

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defalcation.	Amount, cost, or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance.

APPENDIX E.

Table of Fees payable in Distraints under this Act.

Sum distrained for.	Fee.	
	Rs.	As.
Under 1 rupee	0	4
1 and under 3 rupees	0	8
3 „ 5 „	1	0
5 „ 10 „	1	8
10 „ 15 „	2	0
15 „ 20 „	2	8
20 „ 25 „	3	0
25 „ 30 „	3	8
30 „ 35 „	4	0
35 „ 40 „	4	8
40 „ 45 „	5	0
45 „ 50 „	5	8
50 „ 60 „	6	0
60 „ 80 „	7	8
80 „ 100 „	9	0
Above 100	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

ACT No. XIII OF 1857.

Received the Governor General's assent on the 6th of June 1857.

An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal.[a]

Preamble.

WHEREAS the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed; and whereas it is also expedient that certain obsolete Regulations relating to the provision of opium should be formally repealed, and that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended; It is enacted as follows:—

1. [*Repealed by Act No. XIV of 1870.*]

2. The cultivation of the poppy and the manufacture of opium within the territories under the Presidency of Fort William in Bengal, except on account of Government, are hereby prohibited.[b]

Officers entrusted with superintendence of provision of opium.

3. The superintendence of the provision of opium for Government shall be entrusted to Agents, or other officers, being covenanted servants of the Company duly appointed by Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue in Calcutta.

Assistants to Agents.

The Agents, or other officers as aforesaid, shall be assisted by Deputy Agents and Sub-deputy Agents, or such other officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose.

Collector *ex officio* Deputy Agent.

The Collector of the district shall ordinarily, and unless Government shall otherwise direct, be *ex officio* Deputy Agent; and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be from time to time regulated by the said Board with the sanction of Government.

Officers amenable to civil Courts.

4. The Opium Agents, and their subordinate officers of every description, are declared amenable to the civil Courts for all acts done by them in their official capacity, except as otherwise herein provided.

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No XV of 1874.

[b] This section will be repealed by Act No. XXIII of 1876 as soon as that Act is brought into force by notification under Act VI of 1877.

Bar of suit without previous application to Agent for redress.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the civil Court.

Sanction to suit by Agent.

5. The Opium Agents shall not in their official capacity institute any suit in a civil Court without the previous sanction of the Board of Revenue.

Board may in certain cases appoint officer to conduct or defend suits.

6. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or an Agent, or any other officer subordinate to them, may be engaged, instead of leaving such superintendence to the Agent or any other officer.

Board to fix limits of cultivation and price to be paid to cultivators.

7. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government.

With the like sanction they shall from time to time fix the price to be paid to the cultivators for the opium produced.

The price shall be fixed at a certain sum per ser of eighty tolas for opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue, for opium of a consistence below the standard.

Issue of licenses.

8. The Sub-deputy Agents, or other officers entrusted with the superintendence of the cultivation, shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy, and to deliver the produce to the officers of Government at the established rates.

What to be specified in license.

Every license shall specify the number of bíghás which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct.

A counterpart-engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

Cultivator to have option to engage to cultivate or not. Officers compelling cultivator to engage liable to be dismissed.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any Sub-deputy Agent or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Sub-deputy Agent may withhold license to cultivate.

It shall be at the option of the Sub-deputy Agent or other officer as aforesaid, to withhold a license from any cultivator whenever he may think proper so to do.

Appeal.

Any person to whom a license has been refused may appeal to the Agent, and the decision of the Agent shall be final.

Penalty on cultivator receiving advances and not cultivating full quantity of land. Adjudication of penalty.

10. If it shall be found that any cultivator who has received advances from Government has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other officer as aforesaid.

Appeal.

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Delivery of opium produced.

11. All opium the produce of land cultivated with poppy on account of Government, shall be delivered by the cultivators to the Sub-deputy Agents or other district-officers, or shall be brought by them to the sadr factory, as the Agent may direct.

Opium not liable to distress or attachment.

And no such opium shall be liable to be distrained or attached by a zamíndár or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or of the district-officer under the rules in force for such attachments.

Value thereof may be attached.

Opium to be weighed and classified by Sub-deputy Agent.

12. All opium delivered by the cultivators to the Sub-deputy Agent or other district-officer, shall, before it is forwarded to the sadr factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue.

Proceeding where cultivator is dissatisfied with classification.

Any cultivator who may be dissatisfied with the classification of the district-officer, shall be at liberty either to take his opium to the sadr factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Weighing and examination at sadr factory.

13. All opium forwarded by the district-officers to the sadr factory, and all opium delivered at the sadr factory by the cultivators, shall be there weighed and examined by the Opium Examiner, or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the opium, and the deductions from or additions (if any) to the standard-price to be made in accordance with the said rules, shall be determined by the result of such examination.

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation of adulterated opium.

14. When opium delivered by a cultivator, either to a district-officer, or at the sadr factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

Adjudication of confiscation.

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated; and the order of the Agent shall be final, and not open to question in any Court.

Weights and scales.

15. The weights and scales made use of in the sadr factories, and at the district-koṭhís, shall be provided by the Board of Revenue.

Examination thereof.

Every district-officer shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the Agent.

The Agent shall make a similar examination of the weights and scales of the sadr factory, and shall report the result to the Board.

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium, to see that the opium is weighed fairly with an even beam, and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

Adjustment of cultivator's accounts, and recovery of balance by distress.

16. The accounts of the cultivators shall be adjusted annually by the district-officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any mahto or intermediate manager, may be recovered by the district-officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held khás may be distrained and sold by the Collector for the recovery of an arrear of rent or Revenue.

Sanction to issue of warrant.

Provided that no warrant of distress and sale shall be issued by any district-officer without the sanction of the Agent previously obtained.

Penalty on officer taking bribes.

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees.

Exactions by land-holder from raiyat recoverable, together with penalty, in summary suit before Collector.

18. If any zamíndár or other proprietor of land, or any farmer of land, shall exact from any raiyat on account of his poppy-land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the raiyat, or the Sub-deputy Agent or other district-officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for embezzlement of opium by cultivator.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government, who may embezzle, or otherwise illegally dispose of, any part of the opium produced, shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for illegal purchase of opium from cultivator.

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium, and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium, shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of, shall exceed the weight of thirty-one sers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per ser for all such opium in excess of that weight; and the opium, if found, shall be liable to confiscation.

And for illegal connivance at embezzlement by opium-officer.

Penalty for unlicensed cultivation.

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty bíghás, in which case the fine may be at the rate of twenty-five rupees per bíghá; and the poppy-plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per bíghá of land illegally cultivated.

Duty of land-holders and others to give

22. All proprietors, farmers, tahsíldárs, gumáshtas and other managers of land, shall give immediate information to the Police or Ábkárí-dároghas, or

information of illegal cultivation.

opium gumáshtas, or to the Magistrates, Collectors or officers in charge of the Ábkárí mahál, or to the Agents, their deputies, or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, tahsíldár, gumáshta or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of Police and other officers to give information of illegal cultivation.

23. All Police and Ábkárí-dároghas, and opium gumáshtas, and all Native officers of Government of whatever description, and all chaukídárs, paiks, and other village Police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-deputy Agent, or other officer superintending the cultivation of the poppy, if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the Ábkárí mahál, if in a district where the poppy is not so cultivated.

Every Police or Ábkárí-dárogha, opium gumáshta, Native officer, chaukídár or other Police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

Police or Abkárí-dárogha how to proceed in case of illegal cultivation.

24. Whenever a Police or Ábkárí-dárogha or opium gumáshta shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the Authority to which he may be subordinate.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

Land holders, &c., may attach in cases of illegal cultivation.

25. Proprietors, farmers, tahsíldárs, gumáshtas and other managers of land, shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest Police or Ábkárí-dárogha or opium gumáshta, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Adjudication of penalties.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the Ábkárí mahál;

provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Imprisonment in default of payment of fine.

27. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Punishment for repetition of offences.

28. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Place of imprisonment under section 28.

29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village Police-officer convicted of an offence under section 17, 20 or 23, shall be imprisoned in the civil jail.

Disposal of fines and forfeitures.

30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act, together with a reward of one rupee eight annas for each ser of opium confiscated and declared by the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each ser of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

Governor General may allow free cultivation of poppy and manufacture of opium in any district.

31. The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a Sub-deputy Opium Agent or other officer of Government; and when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts:

Power to prescribe rules for delivery to Government officers.

Provided always that the Government may prescribe rules for the delivery of the opium so produced to officers of Government appointed to receive it; and when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who

shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person.

ACT No. XL of 1858.

Received the Governor General's assent on the 11th of December 1858.

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.[a]

Preamble.

WHEREAS it is expedient to make better provision for the care of the persons and property of Minors not brought under the superintendence of the Court of Wards; It is enacted as follows:—

1. [*Repealed by Act No. XIV of 1870.*]

Care of persons and property of minors not under Court of Wards.

2. Except in the case of proprietors of mahâls assessed to revenue or held revenue-free who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the civil Court.

Who may apply for certificate of administration.

3. Every person who shall claim a right to have charge of property in trust for a minor under a will or deed, or by reason of nearness of kin, or otherwise, may apply to the civil Court for a certificate of administration;

No person to institute or defend suit without certificate.

and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such certificate:

Power to allow relative of minor to act.

Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative.

Who may apply to Court to appoint person to take charge of minor's property, &c.

4. Any relative or friend of a minor in respect of whose property such certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the district, may apply to the civil Court to appoint a fit person to take charge of the property and person of such minor.

Application where property in more than one district.

5. If the property be situate in more than one district, any such application as aforesaid shall be made to the civil Court of the district in which the minor has his residence.

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[a] Declared to apply to the whole of the North-Western Provinces except the Scheduled Districts, Act No. XV of 1874.

Procedure of Court on application.

6. When application shall have been made to the civil Court either by a person claiming a right to have charge of the property of a minor, or by any relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same.

On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case.

Reference of enquiry to subordinate Court.

Provided always that it shall be competent to the civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Certificate of administration to whom to be granted.

7. If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person.

If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative.

Court may appoint guardian.

The Court may also, if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid or such relative or any other relative or friend of the minor, to be guardian of the person of the minor.

Court may call for report as to relative or friend.

8. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of his property or person.

Proceeding if no title to certificate be established, and if there be no relative fit to be entrusted with property.

9. If no title to a certificate be established to the satisfaction of the Court by a person claiming under a will or deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the minor, and the Court shall think it to be necessary for the interest of the minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

When Court may grant certificate to Public Curator or other person.

10. If the estate of the minor consist of moveable property or of houses, gardens or the like, the Court may grant a certificate to the Public Curator appointed under section 19, Act XIX of 1841[a] *(for the protection of moveable and immoveable property against wrongful possession in certain cases)*, or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

Appointment of guardian.

11. Whenever the Court shall grant a certificate of administration to the estate of a minor to the Public Curator or other person as aforesaid, it shall at

[a] See General Acts, vol. I, p. 40.

the same time appoint a guardian to take charge of the person and maintenance of the minor.

The person to whom a certificate of administration has been granted, unless he be the Public Curator, may be appointed guardian.

Guardian's allowance.

If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable.

Minor's allowance.

The Court may also fix such allowance as it may think proper for the maintenance of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the Public Curator or other person as aforesaid.

When Court may direct Collector to take charge of estate. Appointment of manager and guardian thereupon.

12. If the estate of the minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a manager of the property of the minor and a guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the manager and guardian respectively, so far as the same may be applicable, as if the property and person of the minor were subject to the jurisdiction of the Court of Wards.

Costs of enquiries.

13. In all enquiries held by the civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the minor or otherwise as it may think proper.

When civil Court may direct Collector to retain charge of shares and persons of certain minors.

14. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the district in which the estate is situate may represent the fact to the civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property, of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court.

The Collector shall in such case appoint a guardian for the care of the persons, and a manager for the charge of the property, of the disqualified proprietors, in the manner prescribed in section 12.

Provision for case of estates situated in

If the property be situate in more than one district, the representation shall be made by the Collector who had the general management of the pro-

perty under the Court of Wards, to the civil Court of his own district, and the orders of the Court of that district shall have effect also in other districts in which portions of the property may be situate. more than one district.

15. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities. Control of proceedings of Collector.

16. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall, within six months from the date of the certificate, deliver in court an inventory of any immoveable property belonging to the minor, and of all such sums of money, goods, effects and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. Public Curator, &c., to furnish inventory

And the Public Curator and every such other administrator shall furnish annually, within three months from the close of the year of the era current in the district, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand. and annual accounts.

If any relative or friend of a minor or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the curator or administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court. Proceeding if accuracy of inventory or account be impugned.

17. All sums received by the Public Curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall be paid into the public treasury on account of the estate, and may be invested from time to time in the public securities. Payment of surplus into treasury. Investment.

18. Every person to whom a certificate shall have been granted under the provisions of this Act, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may collect and pay all just claims, debts and liabilities due to or by the estate of the minor. Powers of person to whom certificate granted, in management of minor's estate.

But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the civil Court previously obtained.

19. It shall be lawful for any relative or friend of a minor, at any time during the continuance of the minority, to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under Relative or friend may sue for account.

his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit after disqualification ceases.

20. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of certificate.

21. The civil Court for any sufficient cause may recall any certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a certificate to the Public Curator or any other person as the case may be; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him.

Removal of guardian.

The Court may also for any sufficient cause remove any guardian appointed by the Court.

Penalty for neglect or refusal to deliver accounts or property.

22. The civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Civil Court may permit resignation of trust, &c.

23. The civil Court may permit any person to whom a certificate shall have been granted under this Act not being the Public Curator, and any guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

Remuneration of Public Curator, &c.

24. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10, shall be entitled to receive such commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the minor's estate, as the civil Court shall think fit.

Guardians of minors to provide for their education.

25. Every guardian appointed by the civil Court, or by the Collector under this Act, who shall have charge of any male minor, shall be bound to provide for his education in a suitable manner.

Act XXVI of 1854 declared applicable.

The general superintendence and control of the education of all such minors shall be vested in the civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854[a] (*for making better provision for the education of male minors subject to the superintendence of the Court of Wards*)

[a] Repealed, so far as it relates to the North-Western Provinces, by Act No. XIX of 1873.

shall, so far as is consistent with the provisions herein contained, be applicable to the civil Court, or to the Collector, as the case may be, in respect to such minors, and to every such guardian.

Persons under 18 years held minors.

26. For the purposes of this Act, every person shall be held to be a minor, who has not attained the age of eighteen years.

Act not to authorize appointment of guardians of certain married women and other persons.

27. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor; and nothing in this Act shall authorize the appointment of any person other than a female as the guardian of the person of a female.

Guardianship in certain cases when to cease.

If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Appeals.

28. All orders passed by the civil Court or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the subordinate Courts.

Construction of "Civil Court."

29. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the district, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any minor subject to its jurisdiction.

Powers of Supreme Court not affected.

Number.

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Gender.

ACT No. XIX of 1864.

Received the Governor General's assent on the 24th of March 1864.

An Act to remove certain tracts of Country in the District of Mirzápúr from the jurisdiction of the local Courts.

Preamble.

WHEREAS it is expedient to remove certain tracts of country in the district of Mirzápúr from the jurisdiction exercised by the civil, criminal and revenue Courts and officers of that district under the general Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from jurisdiction of ordinary tribunals.

1. The tracts of country described in the schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the officers of revenue, constituted by the Regulations

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[a] Repealed (except in the Scheduled Districts) by Act No. XIV of 1871.

of the Bengal Code and by the Acts passed by the Governor General of India in Council: Provided that nothing herein contained shall extend to or affect any case now pending in any Court or office.

Proviso.

Administration of justice and collection of revenue, vested in officers appointed by Lieutenant-Governor, North-Western Provinces.

2. The administration of civil and criminal justice and the superintendence of the settlement and realization of the public revenue, and all matters relating to rent within the said tracts, are hereby vested in such officer or officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance or of reference and appeal, appoint; and the said Lieutenant-Governor may fix the periods within which appeals shall be preferred; provided that no sentence of death passed by any person competent under the appointment of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sadr Court.

Question as to whether place falls under Act how settled.

3. When a question shall arise whether any place falls within the tracts described in the schedule of this Act, it shall be competent to the Commissioner of the Division to determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—

Pargana Agorí, Tappas Agorí Khás and South Kon.

Pargana Singrauli, Tappa British Singrauli.

Pargana Bichípúr, Tappas Phulwá, Dúdhí and Barhá.

ACT No. IX of 1866.

Received the Governor General's assent on the 9th of March 1866.

An Act to extend to the Sadr Court of the North-Western Provinces certain provisions of "The Pleaders, Mukhtárs and Revenue Agents' Act, 1865," and of Act No. XXIX of 1865.

Preamble.

WHEREAS it is expedient to extend to the Sadr Court of the North-Western Provinces certain provisions of "The Pleaders, Mukhtárs and Revenue Agents' Act, 1865" and of Act No. XXIX of 1865; It is enacted as follows:—

Power to Sadr Court, N.-W. P., to make rules as to

1. Notwithstanding any thing contained in "The Pleaders, Mukhtárs and Revenue Agents' Act, 1865," the said Sadr Court shall have power to make rules for the qualification, admission and enrolment of proper persons to be

pleaders and mukhtárs of such Court, for the fees to be paid for the examination, admission and enrolment of such persons, and, subject to the provisions contained in the same Act, for the suspension and dismissal of the pleaders so admitted and enrolled. The said Court may also from time to time vary and add to such rules. Pleaders and Mukhtárs of such Court.

2. The provisions contained in sections 5 to 12 (both inclusive), 14, 15, 18, 37, 39 and 41 of "The Pleaders, Mukhtárs and Revenue Agents' Act, 1865,"[a] and in sections 1 and 2 of Act No. XXIX of 1865,[b] shall, *mutatis mutandis*, apply to pleaders and mukhtárs practising in the said Sadr Court. Provisions applied to pleaders and mukhtárs practising in such Court.

3. This Act shall be read with and taken as part of "The Pleaders, Mukhtárs and Revenue Agents' Act, 1865." Act to be read with Act XX of 1865.

ACT No. XXIV of 1866.

Received the Governor General's assent on the 11th of July 1866.

An Act to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William.[c]

WHEREAS it is expedient to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in the exercise of its original criminal, and its civil, intestate and testamentary, jurisdictions; It is hereby enacted as follows:— Preamble.

1. In this Act, unless there be something repugnant in the subject or the context— Interpretation-clause.

"High Court" denotes Her Majesty's High Court of Judicature for the North-Western Provinces of the Presidency of Fort William: "High Court."

"Lieutenant-Governor" denotes the Lieutenant-Governor for the time being of the said Provinces: "Lieutenant-Governor."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure: "Magistrate."

"Registrar" includes, besides such officer, any officer specially appointed by the Lieutenant-Governor to discharge the functions given by this Act to the Registrar: "Registrar."

Words in the singular include the plural, and words denoting the masculine gender include females. Number, Gender.

2 to 17. [*Repealed by Act No. X of 1875.*]

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[a] See General Acts, vol II, p. 822 [b] See General Acts, vol. II, p. 838.

[c] Repealed, from 1st October 1877, by Act No. X of 1877.

Parts of Act VIII of 1859 suspended in High Court.

18. The operation of the following sections of Act No. VIII of 1859,[a] namely, sections 184, 185, 186 and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the same Act as extends the provisions of the same sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the High Court; and the High Court, and every Division Court and Judge thereof, shall record their and his judgments and the orders passed by them and him respectively in such manner as the High Court shall by any general rule or rules from time to time direct.

High Court to record its judgments and orders as it shall by rule direct.

Court may fix time for appealing from judgments, &c., of its own Judges or Division Courts.

19. The High Court may by its own rules fix the time within which appeals from or applications for review of any judgments, orders or decrees made by any Division Court, or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction, shall be preferred.

Power to order execution before costs ascertained, and execution for costs subsequently.

20. Whenever it shall appear necessary to a Judge of the High Court that a decree made in the exercise of the original civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith except as to so much thereof as relates to the costs, and, as to so much thereof as relates to the costs, that the same may be executed as soon as the amount of the costs shall be ascertained by taxation.

The High Court may appoint the Registrar to be Taxing Officer.

Court may authorise acts required by law to be done by pleader, to be done by attorney.

21. Whenever anything is directed by the said Act No. VIII of 1859[b] to be done by or through a pleader, the High Court, or any Judge thereof in the exercise of its original civil jurisdiction, may authorize such act to be done by or through an attorney-at-law of the High Court:

Proviso.

Provided that no attorney shall be authorized under the provisions of this section to plead in the High Court or in any Division Court for any other person.

Testamentary and intestate procedure.

22. The procedure in all cases which shall be brought before the High Court in the exercise of its original testamentary and intestate jurisdiction, shall be regulated as far as the circumstances of the case will admit by the rules of procedure laid down in the Indian Succession Act, 1865,[c] whether the Act itself applies to the case or not, and in cases to which such rules are inapplicable the procedure shall be regulated by the Code of Civil Procedure.

Short title.

23. This Act shall be called "The High Court (North-Western Provinces) Act, 1866."

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a, b Repealed, from 1st October 1877, by Act No. X of 1877. c See General Acts, vol II, p. 710.

ACT No. I OF 1867.

Received the Governor General's assent on the 18th of January 1867.

An Act to authorize the levy of tolls for the improvement of the navigation of the Ganges.

Preamble.

WHEREAS it is expedient to authorize the levy of tolls on certain steamers, flats and boats plying on the river Ganges, to be applied for the improvement of the navigation of the said river between Allahabad and Dinapore; It is hereby enacted as follows:—

Interpretation-clause.

1. In construing this Act—

"Lieutenant-Governor."

"Lieutenant-Governor" shall mean the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William;

"Master."

"Master" shall include every person (except a pilot) having command or charge of any steamer, flat or boat; and

"Magistrate."

"Magistrate" shall include any person exercising any of the powers of a Magistrate.

Toll not exceeding 12 annas per 100 maunds chargeable on vessels ascending or descending Ganges.

2. A toll not exceeding twelve annas per hundred maunds shall be payable, at such place or at one of such places subject to the government of the Lieutenant-Governor as he shall from time to time direct, in respect of every steamer, flat and boat of the burden of two hundred maunds and upwards, which shall pass up or down the Ganges by such place or any one of such places:

Provided that toll shall be levied in the case of steamers only on sixty-five per cent. of the burden, and in the case of flats only on ninety per cent. of the burden.

Rules for measurement of burden.

3. The burden of steamers and flats liable to pay tolls under this Act shall be determined according to the method which may from time to time be practised by the Master Attendant at Calcutta in order to ascertain the amount of port-dues which such steamers and flats would be liable to pay on arriving within the limits of the port of Calcutta.

The following method shall be used for determining in maunds, according to actual floatage or displacement, the burden of boats liable to pay tolls under this Act; (that is to say), half the length in feet at the water-level of the boat, shall be multiplied by the greatest width in feet at the water-level, and the product shall further be multiplied by the draft of water in feet, and the number so found shall be taken to be the burden in maunds.

Thereupon the toll shall be calculated according to the even hundreds of maunds, fractions of a hundred being neglected.

Application of

4. The funds raised by the tolls payable under this Act shall be applicable,

funds raised under Act

at the discretion of the Lieutenant-Governor, to defray the expenses of improving and facilitating the navigation of the Ganges between Allahabad and Dinapore.

Appointment of Collector of tolls.

5. The Lieutenant-Governor may appoint any person he may think fit to collect the tolls payable under this Act at any place or places under his government, and may from time to time remove any such person and appoint another person in his stead.

List of tolls.

6. Sections 2 and 3 of this Act, and a list of the rates of toll and of the place or places of collecting the toll leviable under this Act, shall be at all times exhibited at such place or places in the English and Urdú languages, and shall also be published thrice in the local Gazette.

Person to collect tolls, and receiver to give voucher for same.

7. Every person so appointed shall collect the tolls leviable under this Act by himself, or by any officer in his establishment (if any) whom he shall appoint in this behalf.

The officer to whom any such toll shall be paid shall grant to the person paying the same a voucher in writing under his hand, describing the name of his office and the place at which such payment shall be made, the name (if any), burden and other proper description of the steamer, flat or boat, and the voyage in respect of which such toll shall be paid.

Payment of tolls how enforced.

8. If any toll leviable under this Act in respect of any steamer, flat or boat shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such steamer, flat or boat, and any furniture thereof, and to detain the same; and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by the Lieutenant-Governor in this behalf.

On receipt of such report, the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said steamer, flat or boat and any furniture thereof.

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale.

If the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale, to the Collector, Deputy Collector or other officer as aforesaid, such officer shall sell the steamer, flat or boat and furniture seized, or so much thereof as may be necessary to pay the toll, and also any expenses occasioned by non-payment.

So much of the property seized as may not have not been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying

the toll and for defraying the expenses occasioned by non-payment, shall be returned to the master of the steamer, flat or boat.

Power to sue for recovery of tolls.

9. Notwithstanding anything in this Act contained, the person authorized to collect the tolls payable under this Act at any such place as last aforesaid, may, in his own name, sue for and recover, on behalf of the Government of India, the amount of any tolls payable to him under this Act, by suit in any of the civil Courts against the owner or master of any steamer, flat or boat liable thereto.

Ascertainment by toll-collector of burden of steamer, flat or boat.

10. Upon the refusal or neglect of any owner or master of any steamer, flat or boat liable to pay toll under this Act, to satisfy the person authorized to collect such toll as to what is the true burden, as ascertained under section 3 of this Act, of the steamer, flat or boat, it shall be lawful for such person to cause such steamer, flat or boat to be measured at the expense of the master thereof, and such expense shall be recoverable in the same manner as tolls payable under this Act;

or it shall be lawful for such person to deliver to the master or owner of such steamer, flat or boat, or to leave for him on board such steamer, flat or boat, a notice in writing specifying what, in his judgment, is the burden of the steamer, flat or boat, and the burden specified in such notice shall be deemed to be the real burden of the steamer, flat or boat, and be treated as such for all the purposes of this Act, until the owner or master of the steamer, flat or boat shall give sufficient proof of the true burden thereof, as ascertained under section 3 of this Act.

Evading payment of tolls.

11. The master of any steamer, flat or boat which shall depart from, or arrive at, any place as last aforesaid, upon, or in the course of, or at the termination of, any voyage, shall, upon demand by any person authorized to collect or receive the tolls under this Act, specify whence he is come and whither he is bound.

If any master of any such steamer, flat or boat shall refuse or neglect so to do, or shall make a false statement as to the place from which he is come or to which he is bound, or shall endeavour to evade the payment of any toll payable under this Act, he shall be punishable by a Magistrate by a fine not exceeding two hundred rupees.

Magistrate to decide disputes respecting tolls.

12. If any dispute shall arise respecting the liability of any steamer, flat or boat to the payment of toll under this Act, or in respect of the burden of any steamer, flat or boat, or the amount of toll payable, or the amount of any charges on account of any sale under this Act, such dispute shall be heard and determined by a Magistrate, and the decision of such Magistrate shall be final.

Lieutenant-Governor may alter tolls.

13. The Lieutenant-Governor may, from time as he may think fit, reduce all or any of the tolls payable under this Act, in respect of all vessels or of

any particular class or classes of vessels, and again raise such tolls to any amount not exceeding the amount hereinbefore specified.

He may also prescribe a mode or modes of measurement for burden differing from those prescribed in section 3 of this Act; provided that the tolls payable under such new mode or modes of measurement shall not exceed the amount specified as aforesaid.

Power to prohibit construction of bándhéls.

14. Whenever, in the opinion of such officer as the Lieutenant-Governor shall appoint in this behalf, the construction of any bándhél or other contrivance for fishing or for any other purpose, in any part of the Ganges between Allahabad and Dinapore is likely to cause obstruction to the free and safe navigation of such part, he may by notice in writing, to be served on the owner or person in charge of such bándhél or other contrivance, or, if such owner or other person cannot be found, to be affixed at some conspicuous place in the nearest village, prohibit the construction of such bándhél or other contrivance.

Penalty for causing obstruction to navigation

15. Any person who shall wilfully disobey any prohibition under the last preceding section, or shall wilfully cause or aid in causing any obstruction to the navigation of the Ganges between Allahabad and Dinapore, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction or in repairing such damage.

Rules relating to navigation

16. It shall be lawful for the Lieutenant-Governor from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend such rules, for the management of the navigation of any part of the Ganges between Allahabad and Dinapore, and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules, not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters:—

(*a*) for fixing the number and the width of steamers, flats and boats to be allowed to pass into or out of or through any part of the Ganges between Allahabad and Dinapore at one time or abreast;

(*b*) for determining the length of time during which steamers, flats or boats may remain stationary on such part, and the amount of demurrage to be paid by steamers, flats or boats remaining stationary beyond such time;

(*c*) for regulating the mode in which and the place or places at which tolls are to be levied under this Act;

(*d*) for the removal of sunken vessels and obstructions;

(*e*) and for the storing and disposal of the cargo of steamers, flats and boats seized under this Act.[a]

17. All fines imposed under this Act may be recovered in the manner prescribed by the Code of Criminal Procedure, and may be disposed of as the Lieutenant-Governor shall from time to time direct. Recovery of fines.

ACT No. III OF 1867.

Received the Governor General's assent on the 25th of January 1867.

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Panjáb, Oudh, the Central Provinces and British Burma.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, of the Lieutenant-Governor of the Panjáb, and to the administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces, and of the Chief Commissioner of British Burma; It is hereby enacted as follows:— Preamble.

1. In this Act— Interpretation-clause.

"Lieutenant-Governor" means the Lieutenant-Governor of the said North-Western Provinces or the Panjáb, as the case may be: "Lieutenant-Governor."

"Chief Commissioner" means the Chief Commissioner of Oudh, the Central Provinces or British Burma, as the case may be: "Chief Commissioner."

"Common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever: "Common gaming-house."

Words in the singular include the plural and *vice versâ*, and Number

Words denoting the masculine gender include females. Gender.

2. Sections 13, 17 and 18 of this Act shall extend to the whole of the Power to extend Act

[a] See *North-Western Provinces Gazette*, 15th September 1869, pp. 363, 364

said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

Penalty for owning or keeping, or having charge of, gaming-house.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district, or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to

believe that any house, walled enclosure, room or place is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all monies and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, &c., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

8. On conviction of any person for keeping or using any such common On conviction

for keeping gaming-house, instruments of gaming to be destroyed.

gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all monies seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Magistrate may require any person apprehended to be sworn and give evidence.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.

Witnesses indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to apply to certain games.

12. Nothing in the foregoing provisions of this Act contained, shall be held to apply to any game of mere skill wherever played.

Gaming and setting birds and animals to fight in public streets.

13. A Police-officer may apprehend without warrant

any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

Destruction of instruments of gaming found in public streets.

and such Police officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Offences by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

Penalty for subsequent offence.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to informer

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines

17. All fines imposed under this Act may be recovered in the manner prescribed by section 307 of the Code of Criminal Procedure,[a] and such fines

[a] See Act No X of 1872, schedule V.

shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.

ACT No. XVIII of 1867.

Received the Governor General's assent on the 8th of March 1867.

An Act to define the jurisdiction of the Courts of Civil Judicature in the Jhánsí Division.[a]

Preamble.

WHEREAS it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Jhánsí Division; It is hereby enacted as follows:—

Short title.

1. This Act shall be called "The Jhánsí Courts' Act, 1867."

2. [*Repealed by Act No. XIV of 1870.*]

Certain rules regarding jurisdiction and procedure of Revenue-officers in Jhánsí to cease to have effect.

3. So much of the rules passed by the Government of the North-Western Provinces, relating to the jurisdiction and procedure of Revenue-officers within the districts of the Jhánsí Division, and confirmed by the said Act No. XXIV of 1864,[b] section 1, as directed that suits regarding landed property should be heard by the revenue Courts, shall cease to have effect in the said districts with regard to all such suits except summary suits.

And so much of the said rules as relates to summary suits in the revenue Courts, whether as Courts of first instance or appeal, shall remain in force until the said Government shall by notification in the official Gazette declare otherwise.

Interpretation-clause.

4. In this Act—

"High Court."

"High Court" means the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in Bengal;

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor of the said Provinces, and

"Assistant Commissioner."

"Assistant Commissioner" includes Extra Assistant Commissioner.

"District."

"District Court."

5. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court.

"Division." "Divisional Court."

The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

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[a] See Act No. XXVII of 1867, *infra*, p. 154.
[b] Repealed by Act No. XV of 1874.

Grades of Courts in Jhánsí Division.

6. There shall be seven grades of Courts in the Jhánsí Division, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely :—

(1.) The Court of the tahsíldár of the second class :

(2.) The Court of the tahsíldár of the first class :

(3.) The Court of the Assistant Commissioner of the second class :

(4.) The Court of the Assistant Commissioner of the first class :

(5.) The Court of the Deputy Commissioner :

(6.) The Court of the Commissioner :

(7.) The High Court.

Power to declare grade of officers.

7. The Lieutenant-Governor shall have power to declare to which of the said grades any tahsíldár and any Assistant Commissioner in the said Division shall belong.

Jurisdiction of Court of tahsíldár of second class.

8. The Court of the tahsíldár of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed one hundred rupees in value or amount.

Jurisdiction of Court of tahsíldár of first class.

9. The Court of the tahsíldár of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed three hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of second class.

10. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed one thousand rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of first class.

11. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed five thousand rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

12. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second and third grades.

Jurisdiction of Court of Commissioner.

13. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fourth and fifth grades.

Appellate jurisdiction of High Court.

14. The High Court shall have power to hear and determine appeals from original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioner, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioner of the Division.

Time for presenting appeals.

15. The memorandum of appeal, prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within the said period; that is to say, thirty days, if the appeal lie to the Deputy Commissioner; six weeks, if the appeal lie to the Commissioner of the Division; and ninety days, if the appeal lie to the High Court.

The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made.

Memoranda of special appeal shall be presented in the High Court within the period hereinbefore fixed for appeals.

Extraordinary original jurisdiction.

16. The High Court shall have power to remove and to try and determine as a Court of extraordinary original jurisdiction, any suit being or falling within the jurisdiction of any Court in the said division, when the High Court shall think proper to do so, either on the agreement of the parties to that effect or for purposes of justice, the reasons for so doing being recorded on the proceedings of the High Court.

High Court to superintend, and to frame rules of practice for, subordinate Courts.

17. The High Court shall have superintendence over all Courts in the said division, and shall have power to call for returns, and to make and issue general rules for regulating the practice and proceedings of such Courts, and also to prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the attornies, vakíls and all clerks and officers of such Courts, and from time to time to alter any such rule or form or table;

and the rules so made, and the forms so framed, and the tables so settled, shall be used and observed in the said Courts;

provided that such general rules and forms and tables be not inconsistent with the provisions of any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

Power to invest person with certain powers.

18. Whenever the state of the public business requires it, the Lieutenant-Governor shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Jhánsí Division.

Court in which suit shall be instituted.

19. Every suit shall be instituted in the Court of the lowest grade competent to try it: provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Appeal to lie from all decisions, except when expressly prohibited.

20. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Deputy Commissioner may distribute business among subordinate Courts.

21. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit.

Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Transfer of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court.

22. The Commissioner of the division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same.

The Commissioner of the division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his division.

High Court may transfer suits from one subordinate Court to another.

23. The High Court may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such High Court, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value or amount of the subject-matter of the suit or appeal to try the same.

Suits for immoveable property situate in different districts.

24. If the suit be for any immoveable property situate within the limits of different District Courts within the same division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate;

but in such case the Court in which the suit is brought shall apply to the Commissioner of the division for authority to proceed with the suit; and the Commissioner, after hearing the objections, if any, of the defendant, may give such authority.

If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in districts subject to different Commissioners.

25. If the District Courts within the limits of whose jurisdiction any immoveable property sued for is situate are subordinate to different Commissioners, application for authority to proceed with the suit shall be made to the Commissioner of the division to whom the District Court in which the suit is brought is subordinate, and such Commissioner may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

ACT No. XXVII of 1867.

Received the Governor General's assent on the 22nd of March 1867.

An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, and the Jhánsí Division to distribute the business in subordinate Courts.

Preamble.

WHEREAS it is expedient to enable Deputy Commissioners in the Central Provinces, the Panjáb, and the Jhánsí Division to direct the business in the Courts subordinate to them, respectively, to be distributed among such Courts in such way as the said Deputy Commissioners shall respectively think fit; It is hereby enacted as follows:—

Deputy Commissioners empowered to distribute business in Courts subordinate to them.

1. Notwithstanding anything contained in Act No. VIII of 1859 (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*), Act No. XIV of 1865 (*to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces*), Act No. XIX of 1865 (*to define the jurisdiction of the Courts of Judicature of the Panjáb and its dependencies*), or Act No. XVIII of 1867 (*to define the jurisdiction of the Courts of Civil Judicature in the Jhánsí Division*), every Deputy Commissioner in Oudh, the Central Provinces, the Panjáb and its dependencies and the Jhánsí Division, may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Courts excepted.

2. Nothing in this Act shall apply to Courts of Small Causes.

Act to be read with Acts XIV and XIX of 1865 and XVIII of 1867.

3. This Act shall in the Central Provinces be read with and taken as part of the said Act No. XIV of 1865; in the Panjáb and its dependencies, as part of the said Act No. XIX of 1865, and in the Jhánsí Division, as part of the said Act No. XVIII of 1867.[a]

ACT No. XXIV of 1868.

Received the Governor General's assent on the 1st of October 1868.

An Act to prohibit the practice of inoculation in Kumáon and Garhwál.

Preamble.

WHEREAS it is expedient to prohibit the practice of inoculation with the small-pox in the districts of Kumáon and Garhwál; It is hereby enacted as follows:—

Penalty for

1. Whoever produces or attempts to produce in any person by inoculation

[a] See *supra*, p. 150.

with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding three months, or to fine not exceeding two hundred rupees, or to both. inoculating.

2. If any person having been inoculated with the small-pox in a place to which this Act does not extend, shall afterwards enter any place to which this Act extends, before the date of forty days from the date of such inoculation, or without a certificate from a qualified medical officer that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both. Penalty on inoculated person entering place to which Act extends.

3. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half of such fine to the person on whose information the offender has been convicted. Reward to informer.

4. This Act extends only to the districts of Kumáon and Garhwál. Extent of Act.

ACT No. XIII OF 1869.

Received the Governor General's assent on the 19th of March 1869.

An Act further to amend the Procedure of the High Court of Judicature for the North-Western Provinces.

WHEREAS it is expedient to amend the Procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William; It is hereby enacted as follows:— Preamble.

1, 2. [*Repealed by Act No. X of 1875.*]

3.[a] Whenever any petition, application or motion is made in any matter coming before the said Court in the exercise of its civil, criminal or other jurisdiction, the Court shall have power to award and apportion costs in any manner it may think fit. Power to award costs on petitions, &c.

4.[b] Whenever the Court shall require the statements in support of any such petition, application or motion to be verified by a declaration in writing, the person making such verification shall, if any such statement is false, and if he either knows or believes it to be false, or does not believe it to be true, be deemed to have intentionally given false evidence in a stage of a judicial proceeding. Penalty for making false statements in support of petitions, &c.

[a, b] So much of these sections as relates to criminal jurisdiction was repealed by Act No. X of 1875.

THE PRISONS ACT, 1870.

ARRANGEMENT OF SECTIONS.

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ACT No. XXVI OF 1870.

Received the Governor General's assent on the 3rd of October 1870.

An Act to amend the law relating to prisons.

WHEREAS it is expedient to amend the law relating to prisons in the North-Western Provinces, the Panjáb, Oudh, the Central Provinces and British Burma, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Prisons Act, 1870." Short title.

It extends only to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burma. Local extent.

2. [*Repealed by Act No. XII of 1873.*]

3. In this Act— Interpretation-clause.

"prison" means any gaol or penitentiary, and includes the airing-grounds or other grounds or buildings occupied for the use of the prison; "Prison."

"criminal prisoner" means any prisoner charged with or convicted of a crime; "Criminal prisoner."

and "civil prisoner" means any prisoner confined in a civil jail, or on the civil side of a jail. "Civil prisoner."

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

4. The Local Government shall provide for the prisoners in the territories under such Government, accommodation in a prison or prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners. Local Government to provide prison-accommodation.

5. Whenever it appears to the Local Government that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, Temporary shelter of prisoners.

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the Local Government from time to time directs, for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the prison.

Inspector General of Prisons.

6. An Inspector General of Prisons shall be appointed in the North-Western Provinces by the Local Government, in the Panjáb by the Local Government, and in Oudh, the Central Provinces and British Burma, by the Governor General in Council.

In each Inspector General so appointed shall be vested (subject to the orders of the Local Government) the general control and superintendence of all prisons situate in the territories under such Government.

Officers of prison.

7. For every prison there shall be a superintendent, a medical officer (who may also be the superintendent), a gaoler and such subordinate officers as the Local Government thinks necessary.

Subject to the orders of the Governor General in Council, the Local Government may direct that for any specified prison there shall also be a deputy medical officer and a deputy gaoler.

Appointment of officers.

8. The Local Government shall appoint the superintendent and the medical officer and the deputy medical officer.

The superintendent (subject to the approval of the Inspector General of Prisons) shall appoint the gaoler and deputy gaoler.

The superintendent shall also appoint the subordinate officers.

Salaries, suspension and dismissal of officers.

9. Every officer appointed under this Act shall receive such salary as (subject to the approval of the Governor General of India in Council) the Local Government directs; and may be suspended or dismissed by the authority appointing him:

Provided that no gaoler or deputy gaoler shall be dismissed without the consent of the Inspector General of Prisons.

Any subordinate officer dismissed under this section may appeal to the Inspector General, whose orders on such appeal shall be final.

CHAPTER III.

Duties of Officers.

Generally.

Officers to obey superintendent.

10. All officers of a prison shall obey the directions of the superintendent: all subordinate officers shall perform such duties as may be directed by the

gaoler with the sanction of the superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by him.

Officers not to sell or let to prisoners.

11. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to contract with prisoners; nor to benefit by sales.

12. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor, except so far as is expressly allowed by rules made under section fifty-four, shall he derive any benefit, directly or indirectly, from the sale of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Duties of superintendent.

13. Subject to the orders of the Inspector General of Prisons, the superintendent shall—

manage the prison in all matters relating to discipline, labour, expenditure, punishment and control:

correspond on all matters connected with the prison with and through the Inspector General:

submit to the Inspector General all bills of prison-expenditure with proper vouchers for audit:

report to the Inspector General from time to time, as they occur, all escapes and recaptures, and all outbreaks of epidemic disease:

send to the Inspector General returns of all prisoners sentenced to transportation:

periodically inspect all property of the Government in his charge, and report thereon to the Inspector General;

and, generally, obey all rules made under section fifty-four for the guidance of the superintendent.

The superintendent shall also obey all orders respecting the prison given by the Magistrate of the District, or the Deputy Commissioner, as the case may be, and shall report to the Inspector General all such orders and the action taken thereon.

Medical Officer.

Power to make rules as to medical officer's duties.

14. The Local Government shall make rules as to each of the following matters:—

how often the medical officer shall visit the prison and see each prisoner:

the records to be made respecting sick prisoners:

periodical inspection of every part of the prison:

reports on its cleanliness, drainage, warmth and ventilation:

reports on the provisions, water, clothing and bedding supplied to the prisoners.

Medical officer to obey rules.

The medical officer shall obey such rules.

To report special cases.

15. Whenever the medical officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the medical officer shall report the case in writing to the superintendent, together with such directions as the medical officer thinks proper.

To make entries as to death of prisoners.

16. On the death of any prisoner, the medical officer shall forthwith record in writing the following particulars, namely,—

when the deceased was taken ill,

when the medical officer was first informed of the illness,

the nature of the disease,

when the prisoner died,

and (in cases where a *post mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the medical officer to be required.

Deputy medical officer.

17. Where a deputy medical officer is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made hereunder, to be performed by the medical officer.

Subordinate medical officer.

When there is no deputy medical officer, or when his services are not available by reason of sickness or other cause, the Local Government may, by general or special order, appoint a subordinate medical officer to act as a substitute for the medical officer, and the subordinate medical officer so appointed shall perform all the duties of the medical officer.

Gaoler.

Residence of gaoler.

18. The gaoler shall reside in the prison, unless the superintendent permits him in writing to reside elsewhere. The gaoler shall not, without the Inspector General's sanction, be concerned in any other employment.

To deliver list of prisoners in punishment-cells.

19. The gaoler shall deliver to the medical officer daily a list of such prisoners as are confined in punishment-cells.

To give notice of death of prisoners.

20. Upon the death of a prisoner, the gaoler shall give immediate notice thereof to the superintendent.

To keep enumerated books and accounts.

21. The gaoler shall keep, or cause to be kept, the following records.—

(1) a register of warrants;

(2) a book showing when each prisoner is to be released;

(3) a punishment-book for the entry of the punishments inflicted for prison-offences;

(4) a visitors' book for the entry of any observations made by visitors to the prison;

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules made under section fifty-four.

Responsible for safe custody of documents.

22. The gaoler shall be responsible for the safe custody of the records to be kept by him under section twenty-one, and also for the commitments and all other documents confided to his care.

Not to be absent without leave.

23. The gaoler shall not be absent from the prison for a night without permission in writing from the superintendent; but if absent without leave for a night from unavoidable necessity, he shall report the fact and the cause of it to the superintendent.

Deputy gaoler.

24. Where a deputy gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act or by any rule made under section fifty-four to be performed by the gaoler.

Where there is no deputy gaoler, or where his services are not available by reason of sickness or other cause, the superintendent shall, when the gaoler is absent from the prison or temporarily incapacitated, appoint an officer of the prison to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the gaoler.

Subordinate Officers.

Powers of gate-porter.

25. The officer acting as gate-porter, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and if any such articles or property be found, shall give immediate notice thereof to the gaoler.

Subordinate officers not to be absent without leave.

26. Subordinate officers shall not be absent from the prison without leave from the superintendent, or from the gaoler, and before absenting themselves they shall leave their keys in the gaoler's office.

CHAPTER IV.

Admission, Removal and Discharge of Prisoners.

Prisoners to be searched on entrance.

27. When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Medical examination of

Every criminal prisoner shall also, as soon as possible after admission, be examined by the medical officer, who shall enter in a book, to be kept by the

criminal prisoners.

gaoler, a record of the state of the prisoner's health, and any observations which the medical officer thinks fit to add.

Effects of criminal prisoners returned.

28. All money or other effects in respect whereof no order of a competent Court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the gaoler.

Medical examination before removal and discharge of prisoners.

29. All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

No prisoner shall be removed to any other prison unless the medical officer certifies that the prisoner is free from any illness rendering him unfit for removal.

No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the medical officer, such discharge is safe.

CHAPTER V.

Discipline of Prisoners.

Requisitions of Act as to separation of prisoners.

30. The requisitions of this Act, with respect to the separation of prisoners, are as follows:—

(1.)—In a prison containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the men.

(2.)—In a prison where children under 12 years of age are confined, means shall be provided for separating them altogether from the other prisoners.

(3.)—Criminal prisoners before trial shall be kept apart from convicted prisoners.

(4.)—Civil prisoners shall be kept apart from criminal prisoners.

Rules as to separate confinement.

31. The Local Government shall have power to make rules—

(1) as to what cells only shall be used for the separate confinement of prisoners:

(2) as to the time during which prisoners not guilty of offences against prison-rules may be confined separately.

Cells to be furnished with means of communication.

32. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison.

Prisoners under sentence of death

33. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the gaoler, and all articles shall be taken from him which the gaoler deems it dangerous or inexpedient to leave in his possession.

Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

CHAPTER VI.

Food, Clothing and Bedding of Prisoners.

Civil prisoner may maintain himself.

34. A civil prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

Civil prisoner not to sell provisions.

35. No part of any food, clothing, bedding or other necessaries belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources, for such time as the superintendent thinks proper.

Allowance of clothing and bedding.

36. Every civil prisoner unable to provide himself with sufficient clothing and bedding, shall be supplied by the superintendent with such clothing and bedding as may be necessary.

Judgment-creditor to defray such allowance.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

CHAPTER VII.

Employment of Prisoners.

Work and earnings of civil prisoners.

37. Civil prisoners may, with the superintendent's permission, work and follow their respective trades and professions.

Civil prisoners finding their own implements and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the superintendent, for the use of implements and the cost of maintenance.

Examination by medical officer of labouring prisoners.

38. The medical officer shall, from time to time, examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance at hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment.

But if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the gaoler so to employ him.

Employment of prisoners sentenced to simple imprisonment.

39. Provision shall be made by the superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.

The superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

CHAPTER VIII.

Health of Prisoners.

Names of sick prisoners to be reported to gaoler.

40. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the gaoler.

Gaoler to report them to medical officer

The gaoler shall, without delay, call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention,

and shall carry into effect the medical officer's written directions respecting alterations of the discipline or treatment of any such prisoner.

Entry of directions by medical officer.

41. All directions given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column wherein entries shall be made by the gaoler, stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the gaoler thinks fit to make, and the date of the entry.

Infirmaries.

42. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

Visits to and Correspondence of Prisoners.

Visits to prisoners.

43. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom prisoners before trial may desire to communicate.

The Local Government shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline. Correspondence of prisoners

44. The gaoler may demand the name and address of any visitor to a prisoner; and, when the gaoler has any ground for suspicion, may search visitors, or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor. Power of gaoler as to visitors.

In case of any such visitor refusing to be searched, the gaoler may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in his journal.

CHAPTER X.

Offences in Relation to Prisons.

45. Whoever, contrary to the regulations of the prison, brings, throws or attempts by any means whatever to introduce into any prison, or any place provided under section five for the temporary shelter and safe custody of prisoners, any spirituous or fermented liquor, or tobacco, or intoxicating or poisonous drug, Carrying liquor, tobacco or drugs into prison,

and every officer of a prison who knowingly suffers any such liquor, tobacco or drug to be sold or used in such prison or place contrary to such regulations, suffering liquor, &c., to be sold or used in prison,

and whoever, contrary to such regulations, conveys, or attempts to convey, any letter or other article not allowed by such regulations into or out of any such prison or place, carrying letters into and out of prison,

and whoever abets within the meaning of the Indian Penal Code any offence made punishable by this section, abetment of such offences.

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months or to fine not exceeding two hundred rupees or to both.

46. The superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice setting forth the penalties incurred by persons committing any offence under section forty-five. Notice of penalties to be placed outside prison

CHAPTER XI.

Prison Offences.

47 The following acts are declared to be offences against prison-discipline :— List of prison-offences.

(1) wilful disobedience to the regulations of the prison by any prisoner ;

(2) assaults or use of criminal force by any prisoner;

(3) insulting or threatening language by any prisoner to any officer or prisoner;

(4) indecent or disorderly behaviour by any prisoner;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing or cutting irons or bars;

(8) idleness or negligence at work by any convicted criminal prisoner;

(9) wilful mismanagement of work by any convicted criminal prisoner;

(10) wilful damage to prison-property;

(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Superintendent's power to punish prison-offenders.

48. The superintendent may examine any person touching such offences, and determine thereupon, and punish such offences—

(1) by imprisoning the offender in solitary confinement for any time not exceeding seven days;

(2) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the Local Government shall prescribe;

(3) by corporal punishment not exceeding thirty stripes of a ratan; or

(4) where the offender is not sentenced to rigorous imprisonment, by hard labour for any time not exceeding seven days.

The gaoler shall enter in a separate book, called the punishment-book, a statement of the nature of any offence that has been punished under this section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the superintendent.

Punishment of prisoners by Magistrate.

49. If any prisoner is guilty of repeated offences against prison-discipline, or is guilty of any offence against prison-discipline which the superintendent thinks is not adequately punishable under section forty-eight, the superintendent shall report the same to the Magistrate of the district or any Magistrate empowered to receive complaints without reference by the Magistrate of the district.

Such Magistrate shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to sentence the offender to be punished

by confinement in a punishment-cell or in irons for any term not exceeding six months,

or by corporal punishment not exceeding thirty stripes of a ratan,

or by rigorous imprisonment for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment.

Nothing in this or the last preceding section shall authorize the infliction of corporal punishment, or confinement in irons, on any female prisoner or any civil prisoner.

Corporal punishment.

50 All corporal punishment within the prison shall be inflicted in the presence of the superintendent, subject to the law for the time being in force relating to the infliction of corporal punishment and the precautions to be taken in reference thereto.

Penalty on officers ill-treating prisoners or violating rules.

51. Every gaoler and subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any rule contained in this Act or made under section fifty-four, shall be liable, on conviction before the superintendent, to fine not exceeding one hundred rupees, or, on conviction before a Magistrate not being the superintendent, to fine not exceeding two hundred rupees, or rigorous imprisonment for a term not exceeding one month, or both.

Any fine imposed by the superintendent under this section may be recovered, either by deductions from the convicted officer's salary and allowances, or under the law for the time being in force for the recovery of fines.

No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

Confinement in irons of prisoners sentenced to rigorous imprisonment.

52. Whenever the superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, the superintendent may so confine them.

Confinement in irons by gaoler of his own authority.

53. Except in case of urgent necessity, no prisoner shall be put in irons or under mechanical restraint by the gaoler of his own authority, and notice thereof shall be forthwith given to the superintendent.

Except in case of urgent necessity, no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours, without an order in writing from the superintendent specifying the cause thereof, and the time during which the prisoner is to be kept in irons or under mechanical restraint. Such order shall be kept by the gaoler as his warrant.

Power to make supplementary prison-rules.

54. The Local Government may, from time to time, make rules consistent with this Act,

(1) for the government of prisons and for the guidance of all officers appointed hereunder:

(2) as to sales of articles on behalf of prisons or belonging to prisoners, and as to the commission receivable thereon:

(3) as to the food and clothing of criminal prisoners:

(4) for the employment and control of convicts within or without prisons, and for the guidance of the guards in charge of such convicts:

(5) for remission of sentences:

(6) for rewards for good conduct; and

(7) for the appointment and guidance of visitors of prisons.

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.[a]

Present rules.

55. All rules now in force relating to any of the matters mentioned in sections fourteen, thirty-one, thirty-nine and fifty-four shall, so far as such rules are consistent with this Act, be deemed to have been made under those sections respectively.

Exercise of powers of superintendent.

56. All or any of the powers and duties conferred and imposed by this Act on a superintendent may be exercised and performed by such other officer as the Local Government from time to time appoints in this behalf.

THE BENGAL CIVIL COURTS ACT, 1871.

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ACT No. VI OF 1871.

Received the Governor General's assent on the 10th of February 1871.

An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal.

Preamble

WHEREAS it is expedient to consolidate and amend the law relating to the District and Subordinate Civil Courts in the territories respectively under the governments of the Lieutenant-Governors of the Lower and North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called 'The Bengal Civil Courts Act, 1871.'

Local extent.

It extends to the territories for the time being respectively under the governments of the said Lieutenant-Governors, except such portions thereof as for the time being are not subject to the ordinary jurisdiction of the High Courts and except the Jhánsí Division.

Partial exclusion of Mufassal Small Cause Courts.

Except this section and sections seventeen, twenty-nine and thirty, nothing herein contained applies to Courts of Small Causes established under Act No. XI of 1865.

2. [*Repealed by Act No. XII of 1873.*]

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

Number of District Judges.

3. The number of District Judges to be appointed under this Act shall be fixed, and may from time to time be altered, by the Local Government.

Number of Subordinate Judges and Munsifs.

4. The number of Subordinate Judges and Munsifs to be appointed under this Act in each district, shall be fixed, and may from time to time be altered, by the Local Government.

Vacancies in District Judgeships.

5. Whenever the office of District Judge or Subordinate Judge under this Act is vacant, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government shall supply such vacancy or appoint such additional District Judges or Subordinate Judges, as the case may be.

Vacancies in Munsifships.

6. Whenever the office of a Munsif is vacant, or when the Governor General in Council has sanctioned an increase of the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly:

Provided that the Local Government may, with the sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif under this Act;[a] and on such rules being made, no person shall be nominated to such office unless he possesses the qualifications required by the said rules.

Additional Judges.

7. When the business pending before any District Judge requires the aid of Additional Judges for their speedy disposal, the Local Government may, upon the recommendation of the High Court, and subject to the sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a District Judge under chapter III of this Act that the District Judge may, with the sanction of the High Court, assign to them, and, in the performance of such duties, they shall exercise the same powers as the District Judge.

Temporary charge of District Judgeship.

8. In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the senior Subordinate Judge of the District shall, without relinquishing his ordinary duties, assume charge of the Judge's office,

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions,

and shall continue in charge of the office until it is resumed by the District Judge or assumed by an officer duly appointed thereto.

Transfer of proceedings on death, &c., of Subordinate Judge.

9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave when no person is appointed to act for him, the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

Temporary charge of Munsifship.

A District Judge, on the occurrence within his district of any vacancy in the office of Munsif, may, pending the action of the High Court under section six, appoint such person as he thinks fit to act in such office.

And he shall forthwith report to the High Court the occurrence of every such vacancy and such appointment.

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[a] See *North-Western Provinces Gazette*, 28th June, 1873, p. 787.

Power to confer judicial powers on officers in Káchár, Assam, Chutiá Nágpur and Kuch Bihár.

10. The Local Government may invest with the powers of any Court under this Act any officer in the district of Káchár and the Divisions of Assam, Chutiá Nágpur and Kuch Bihár.

Nothing in sections three to nine (inclusive), thirty-two, thirty-three and thirty-four, applies to any such officer. But all the other provisions of this Act apply, *mutatis mutandis*, to officers so invested.

Control of Civil Courts in District.

11. The general control over all the civil Courts in any district is vested in the District Judge, but subject to the superintendence of the High Court.

First District Judges, Additional Judges, Subordinate Judges and Munsifs.

12. The present Judges of the zila Courts, Additional Judges, Subordinate Judges and Munsifs shall be deemed to have been duly appointed to the offices the duties of which they have respectively discharged, and shall be the first District Judges, Additional Judges, Subordinate Judges and Munsifs under this Act.

13. [*Repealed by Act No. X of 1873.*]

Seals of Courts.

14. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

District and Subordinate Judges and Munsifs deemed civil Courts.

15. Every District Judge, Additional Judge, Subordinate Judge and Munsif under this Act shall be deemed to be a civil Court within the meaning of the Code of Civil Procedure and of this Act.

Power to fix sites of Courts.

16. The Local Government may fix, and from time to time alter, the place or places at which any Court under this Act is to be held.

Vacation.

17. Subject to such orders as may from time to time be issued by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Courts subordinate thereto.

Such list shall be published in the local official Gazette, and the said days shall be observed accordingly.

CHAPTER III.

Ordinary Jurisdiction.

Power to fix local limits of jurisdiction.

18. The Local Government shall fix, and may from time to time vary, the local limits of the jurisdiction of any civil Court under this Act:

Provided that, where more than one Subordinate Judge is appointed to any district, and where more than one Munsif is appointed to any Munsifí, the Judge of the District Court may assign to each such Subordinate Judge or Munsif the local limits of his particular jurisdiction within such district or Munsifí, as the case may be.

The present local limits of the jurisdiction of every civil Court (other than the High Court) shall be deemed to be fixed under this Act.

Extent of original jurisdiction of Judges.

19. The jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions in the Code of Civil Procedure, section six, to all original suits cognizable by the civil Courts.

Extent of Munsif's jurisdiction.

20. The jurisdiction of a Munsif extends to all like suits in which the amount or value of the subject-matter in dispute does not exceed one thousand rupees.

Appeals from District and Additional Judges.

21. Appeals from the decrees and orders of District Judges and Additional Judges shall, when such appeals are allowed by law, lie to the High Court.

Appeals from Subordinate Judges and Munsifs.

22. Appeals from the decrees and orders of Subordinate Judges and Munsifs shall, when such appeals are allowed by law, lie to the District Judge, except where the amount or value of the subject-matter in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court:

Provided that the High Court may from time to time, with the previous sanction of the Local Government, order that all appeals from the decrees and orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the order, and such appeals shall thereupon be preferred accordingly.

23. [*Repealed by Act No. XII of 1873.*]

Certain decisions to be according to Native law.

24. Where in any suit or proceeding it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished:

In cases not provided for by the former part of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested.

25. No Munsif, Subordinate Judge, Additional Judge or District Judge shall try any suit in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No Subordinate Judge, Additional Judge or District Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such Munsif, Subordinate Judge, Additional Judge or District Judge, he shall forthwith transmit the whole record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section six.[a]

[a] See Act No. X of 1877, s. 25.

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to refer to Subordinate Judges appeals from Munsifs.

26. Every District Judge may from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals pending before him from the decisions of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

The District Judge may withdraw any appeals so referred, and hear and dispose of appeals so withdrawn.

Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.

27. The High Court may from time to time, by order, authorize any District Judge to transfer to a Subordinate Judge under his control appeals from orders of Munsifs preferred under the Code of Civil Procedure,[a] sections 36, 76, 85, 94, 119, 231 and 257, or under Act No. XXIII of 1861,[b] section eleven.

The High Court may also from time to time, by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge.

The proceedings referred to in the second clause of this section are the following (that is to say),—

(1.) Proceedings under Bengal Regulation V. 1799[c] (*to limit the interference of the zila and city Courts of Díwání Adálat in the Execution of Wills and Administration to the estates of persons dying intestate*).

(2.) Proceedings under Act No. XL of 1858[d] (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), or Act No. IX of 1861[e] (*to amend the law relating to Minors*).

(3.) Claims to attached property under the Code of Civil Procedure, section 246.[f]

(4.) Applications by judgment-debtors under section 273 or section 280 of the same Code.[g]

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[a] Repealed, from 1st October 1877, by Act No. X of 1877. The references in the text will be read as applying to the corresponding parts of that Act, *i. e.*, secs 333 and 588.

[b] Repealed, from 1st October 1877, by Act No. X of 1877.

[c] See *supra*, p. 19.

[d] See *supra*, p. 132.

[e] See General Acts, vol. I, p. 528.

[f] *i. e.*, Act No. X of 1877, s. 278.

[g] *i. e.*, Act No. X of 1877, s. 344.

(5.) Applications to file awards under section 327 of the same Code.[a]

(6.) Applications for permission to sue or appeal as a pauper.[b]

(7.) Applications for certificates under Act No. XXVII of 1860[c] (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*).

The District Judge may withdraw any proceedings so transferred and may either himself dispose of them, or, with the sanction of the High Court, transfer them to any other Subordinate Judge or Munsif under his control.

Disposal of proceedings so transferred.

28. Subject to the provisions of the last clause of section twenty-seven, all proceedings transferred under the second clause of the same section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the High Court if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

Power to invest Subordinate Judges with Small Cause jurisdiction.

29 The Local Government may invest, within such local limits as it from time to time appoints, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts, up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

Amendment of Act No. XI of 1865.

30. Section fifty-one of Act No. XI of 1865[d] (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the Ordinary Original Civil jurisdiction of the High Courts of Judicature*) shall be read as if, for the words "Principal Sadr Amín," the words "Subordinate Judge" were substituted.

CHAPTER V.

MISFEAZANCE.

Suspension or removal of Judges.

31. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Subordinate Judge.

32. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

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[a] *i. e.*, Act No. X of 1877, s. 525.
[b] See Act No. X of 1877, ss. 403, 592.
[c] See General Acts, vol I, p. 352.
[d] See General Acts, vol. II, p. 800.

Whenever the High Court exercises this power, it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

Suspension of Munsifs by High Court.

33. The High Court may appoint a commission for enquiring into the alleged misconduct of any Munsif.

On receiving the report of the result of any such enquiry, the High Court may, if it thinks fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

The provisions of Act No. XXXVII of 1850[a] (*for regulating enquiries into the behaviour of public servants*) shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

The High Court may also, previous to the appointment of such commission, suspend any Munsif pending the result of the enquiry.

The High Court may, without appointing any such commission, remove or suspend any Munsif, or reduce him to a lower grade.

Suspension of Munsifs by District Judges.

34. Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Munsif under his control.

Whenever a District Judge suspends from office any such Munsif, he shall forthwith send to the High Court a full report of the circumstances of the suspension, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

CHAPTER VI.

Ministerial Officers.

Appointment and removal of ministerial officers of District Courts.

35. The Judges of the District Courts shall appoint the ministerial officers of such Courts, and, subject only to the general control of the Local Government, the said Judges may remove or suspend such officers or fine them in an amount not exceeding one month's salary.

Appointment and removal of ministerial officers of Subordinate Judges and Munsifs.

36. The ministerial officers of the Courts of Subordinate Judges and Munsifs shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.

Power to punish such officers.

Every such Court may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any of its ministerial officers who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Local Government, may on appeal or otherwise reverse or modify every such order.

[a] See General Acts, vol. I, p 97.

Nothing in this section or in section thirty-five shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

Transfer of ministerial officers.

37. The Local Government may, at the instance of the District Judge, transfer from any Court in the territories subject to such Government, to any other Court in the same territories, all or any of the ministerial officers of such Judge or of any Subordinate Judge or Munsif under his control.

The District Judge may transfer all or any of the ministerial officers of any Court under his control to any other such Court.

Recovery of fines.

38. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered by deduction from the offender's salary.

THE EXCISE ACT, 1871.

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ACT No. X of 1871.

Received the Governor General's assent on the 24th of March 1871.

An Act to consolidate and amend the laws relating to the Excise Revenue in Northern India, British Burma and Coorg.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws in force in Northern India, British Burma and Coorg relating to the manufacture of spirits, the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Excise Act, 1871."

Local extent.

It extends to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg.

2. [*Repealed by Act No. XII of 1873.*]

Interpretation-clause.

3. In this Act,

"Chief Revenue Authority."

"Chief Revenue Authority" means,—

in the territories subject to the Lieutenant-Governor of the North-Western Provinces—the Board of Revenue,

in the Panjáb and Oudh—the Financial Commissioner, and

in the Central Provinces, British Burma and Coorg—the Chief Commissioner:

"Collector."

"Collector" includes any revenue-officer in independent charge of a district and a superintendent of excise-revenue:

"Magistrate."

"Magistrate" means any Magistrate exercising powers not less than those of a subordinate Magistrate of the first class:

"Country-spirit."

"Country-spirit" means any spirit made by the Native process of distillation:

"Intoxicating drugs."

"Intoxicating drugs" [a] includes gánja, bháng, charas and every preparation and admixture of the same.

Saving of Act No. XVI of 1863.

4. Nothing herein contained affects Act No. XVI of 1863 [b] (*to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry*).

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[a] These words, wherever they occur in this Act, do not include opium, Act No. XXIII of 1876.

[b] See General Acts, vol. i, p. 630.

II.—Manufacture of Spirits and Fermented Liquor.

English distilleries not to be constructed or worked without license.

5. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the hand of the Collector of the district in which such distillery is situated.

Chief Revenue Authority to prescribe rules for regulating English distilleries.

6. The Chief Revenue Authority may from time to time make rules relative to—

(*a*) the granting of licenses under section five;

(*b*) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work;

(*c*) the size and description of the stills;

(*d*) the passing and storing of the spirits;

(*e*) the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein;

(*f*) the furnishing of statements and lists of such spirits, and of the stills, coppers, casks and other utensils used in the distillery.

Collectors may establish distilleries for country-spirits.

7. The Collector with the sanction of the Chief Revenue Authority, may—

(*a*) establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the Native process,

(*b*) from time to time fix limits within which no country-spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery, and

(*c*) discontinue any distillery so established.

Chief Revenue Authority may prescribe rules for distilleries.

8. The Chief Revenue Authority may from time to time make rules relative to

(*a*) the management of distilleries established under section seven;

(*b*) the conditions on which spirits may be manufactured in the said distilleries, and

(*c*) the passes to be issued for the conveyance of such spirits to the shops of the vendors.[a]

Breweries not to be constructed or worked without license.

9. No person shall construct or work a brewery, or manufacture any description of malt liquor, without a license from the Collector.

The Chief Revenue Authority may from time to time make rules relative to the granting of licenses for constructing and working breweries.

Sanction to rules under sections 6, 8 and 9.

10. Except in the Central Provinces, British Burma and Coorg, the sanction of the Local Government is required to validate rules under sections six, eight and nine.

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[a] See *The Excise Manual*, 1875.

Prohibition of unlicensed manufacture of country-spirits.

11. No person shall manufacture spirits after the Native process except under license from the Collector.

III.—Sale of Spirits, Fermented Liquor and Intoxicating Drugs.

English spirits and fermented liquor not to be sold without license.

12. Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

Fee for wholesale-license.

13. Persons taking out licenses for the wholesale vend of spirituous and fermented liquors as aforesaid shall pay, for every such license, such sum as the Chief Revenue Authority from time to time prescribes.

The license shall be current only during the official year, and in the district in which it is granted.

But travelling merchants may obtain, under such rules and restrictions as the Chief Revenue Authority from time to time prescribes, a general license authorizing them to sell by wholesale, in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

Fee for retail-license.

14. Persons taking out licenses for the retail-sale of spirituous and fermented liquors as aforesaid shall pay for every such license such fee or tax as the Chief Revenue Authority fixes, and such fee or tax shall be payable at such periods as the said Authority directs.

What to be held a retail-sale.

Any sale of spirituous or fermented liquors as aforesaid, in less quantity than two imperial gallons or one dozen of quart-bottles, shall be held to be a retail-sale.

Country-spirits and drugs not to be sold without license.

15. No person shall sell spirits manufactured by the Native process, or tárí, or pachwái, or any intoxicating drug, except under license from the Collector.

Tárí to be deemed a fermented liquor.

16. All the provisions relating to the sale or possession of fermented liquors contained in the following sections apply to the sale or possession of tárí, whether in a fermented state or otherwise; and all tárí, both fresh and fermented, is included in the expression "fermented liquors" as used in the following sections.

Proviso.

17. Provided that the Local Government may suspend the operation of all the provisions relating to tárí contained in this Act, with respect to any district in which the consumption of tárí in a fermented state is inconsiderable; and thereupon tárí may be possessed and sold without license in such district, notwithstanding anything contained in this Act.

Supply of opium to licensed vendors.

18. Opium shall be supplied to licensed vendors from the Government stores in such manner and at such prices as the Chief Revenue Authority from time to time directs: and no other description of opium shall be sold by such vendors.

The Local Government may, from time to time, by order, exempt any district from the operation of this section.[a]

19. Except for the supply of licensed vendors, or under a special order from such officer as the Local Government appoints in this behalf, country-spirits, tárí and pachwáí, and intoxicating drugs shall not be sold in larger quantities than are hereunder specified— Sale of more than specified quantities of country-spirits, &c., prohibited.

country-spirits, one ser;

tárí or pachwáí, four sers;

gánja or bháng, or any preparation or admixture thereof, one quarter of a ser;

charas, or opium[b] or any preparation or admixture thereof, five tolas weight;

And the sale of any such quantity as is herein allowed shall be deemed to be a retail-sale within the meaning of this Act.

20. No cultivator of the plants producing gánja or bháng shall sell any gánja or bháng to any one other than (*a*) a person licensed under section fifteen to sell the same or (*b*) a person duly authorised to purchase the same by pass or license from the Collector. Restriction of sale of gánja and bháng.

IV.—Duties.

21. A duty shall be levied on spirits manufactured at distilleries worked according to the English method, at the rate of three rupees the imperial gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit. Rate of duty to be levied on English spirits.

No spirit shall be removed from any such distillery or the warehouses connected therewith, upon which the aforesaid duty has not been paid, or for the duty chargeable on which a bond has not been executed as hereinafter provided.

For all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify

(*a*) the quantity and strength of the spirit,

(*b*) the place of its destination,

(*c*) the person to whom it is consigned, and

(*d*) whether the duty has been paid or secured by bond.

Nothing in the former part of this section applies to British Burma.

22. Spirituous liquors manufactured at any place in India beyond the limits of British India, shall, on passing such limits subject to this Act, be charged with the duty prescribed for proof-spirits in section twenty-one: Spirits from foreign territory subject to duty.

and any person found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every

[a] This section will be repealed by Act No. XXIII of 1876, as soon as that Act is brought into force by notification under Act No. VI of 1877.

[b] The words "or opium" will be repealed by Act No. XXIII of 1876, as soon as that Act is brought into force by notification under Act No. VI of 1877.

such offence a sum not exceeding two hundred rupees; and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Duty on country-spirits manufactured at distilleries established by Collector.

23. A duty shall be levied on spirits manufactured in distilleries established under section seven at such rate as the Chief Revenue Authority, with the sanction of the Local Government, may from time to time prescribe.

Duty on retail-sale of country-spirits, &c.

24. Whenever a license for the retail-sale of country-spirits, tárí, pachwáí or intoxicating drugs is granted under this Act, the Collector may demand, in consideration of the privilege granted, such tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed by the Chief Revenue Authority.

Such tax or duty shall be specified in the license, and shall be payable at such periods as the said Authority may direct.

The Collector may grant special licenses for the sale of unfermented tárí only, at those periods of the year when the fresh juice is in request: fees may be demanded for such special licenses at a rate for each license to be fixed from time to time by the Chief Revenue Authority; and the vendors shall not be subject to any other tax or duty in respect of such sale.

V.—Farm of Duties.

Power to farm out duties.

25. The Collector may, with the sanction of the Chief Revenue Authority, let in farm, for any period not exceeding five years, the duties leviable on the retail-sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs in any district or division of a district.

Tenders for farm.

26. The Chief Revenue Authority may prescribe rules—

(*a*) for the invitation and acceptance of tenders for such farms,

(*b*) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(*c*) as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

Farmer to make arrangements with local manufacturers and vendors.

27. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

And all the fines and forfeitures hereinafter prescribed, for the unlawful manufacture, sale or possession of any such article, shall be incurred by all persons manufacturing, selling or possessing the same without license or authority from the farmer.

List of licenses granted by farmer to be filed.

28. Every such farmer shall file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Chief Revenue Authority.

The Collector, with the sanction of the said Chief Revenue Authority, may, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit. Restrictions as to grant of licenses.

29. The Collector may, with the sanction of the Chief Revenue Authority, cancel any lease granted under this Act; or may within the period of the lease, impose any new restriction on the farmer. Lease may be cancelled.

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Chief Revenue Authority thinks fit. Compensation to farmers in certain cases.

30. Every farmer of excise-revenue may use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor, as may be lawfully used by zamíndárs and farmers of land for the recovery of arrears of rent due to them from their under-tenants. Recovery of arrears of tax or duty by farmers.

VI.—Licenses.

31. Every person taking out a license for the manufacture of country-spirits or for the retail-sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart-engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security, as the Collector may require. Certain licensees to execute counterpart and furnish security.

32. Unless otherwise especially authorized by the Chief Revenue Authority, licenses for retail-sale shall be granted for the term of one year, and if continued to the holders thereof, shall be formally renewed from year to year. Duration and renewal of license.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into, by every such person, shall remain in force as if the said license and engagement had been formally renewed.

33. The Chief Revenue Authority may regulate the form and conditions of all licenses granted under this Act. Regulation of form of license.

34. The Collector may recall or cancel any license granted under this Act, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence. Power to recall license.

If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum

equal to the tax for fifteen days, or, if notice be not given, shall make such further compensation for default of notice as the Commissioner or Chief Revenue Authority directs.

Surrender of license.

35. Any licensed retail-vendor may surrender his license on giving one month's previous notice to the Collector, and paying such fine not exceeding the amount of the license-fees for six months as the Collector may adjudge.

If the Collector is satisfied that there is a sufficient reason for resigning a license, he may remit the fine so prescribed.

VII.—Powers of Officers.

Collectors of land-revenue to have charge of excise.

36. The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of land-revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Chief Revenue Authority.

But the Local Government may appoint any other person to be superintendent of excise-revenue in any district or place, and any person so appointed shall exercise, in such district or place, all the powers and authority conferred by this Act on the Collector of land-revenue; and the Collector of land-revenue shall cease to exercise such powers and authority in such district or place during the continuance of such appointment.

Power to appoint Commissioners of Excise.

37. The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the excise-revenue in any district or districts; and when such appointment is made the Commissioner of Excise shall exercise within such district or districts the powers and authority conferred by this Act on Commissioners of Revenue, and the Commissioners of Revenue shall cease to exercise such powers and authority in the said district or districts during the continuance of such appointment.

Collectors may appoint excise-officers.

38. Collectors may appoint dároghas, jamadárs, peons, surveyors, gaugers and other officers, for the collection of the excise-revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designations, be styled excise-officers.

Tahsíldárs may be excise-dároghas.

39. In districts where there are tahsíldárs and other local officers for the collection of the land-revenue, the office of excise-dárogha may be united with that of tahsíldár, or any of such local officers, and the said officers, together with the officers subordinate to them, shall be deemed to be excise-officers within the meaning of this Act.

Power to regulate supply of tárí and intoxicating drugs to licensed vendors.

40. The Chief Revenue Authority may regulate the mode in which tárí shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing gánja, bháng or charas for the supply of the licensed vendors of those drugs.

Such Authority may also place the cultivation, preparation, and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

Recovery of arrears of tax or duty.

41. The Collector may recover any arrear of tax or duty due on account of any license granted under this Act,

or any arrear due from any farmer of excise-revenue,

by distress and sale of the moveable property of the person from whom the arrear is due or of his surety, or by any other process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties.

Power of excise-officers to inspect shops.

42. Any excise-officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail-vendor carries on the manufacture of country-spirits, or the sale of spirituous or fermented liquors or intoxicating drugs.

And to arrest persons carrying spirits, &c., liable to confiscation.

43. Any excise-officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act;

and may seize the liquors or drugs with the vessels, packages or coverings in which they are contained, and the animals and conveyances used in carrying them;

and may also arrest the person in whose possession such liquors or drugs are found.

And to arrest unlicensed distillers, &c.

44. Any excise-officer above the rank of a jamadár of peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors, or intoxicating drugs,

and may seize such still with the materials for working it, and all such liquors and drugs.

And to seize stills.

And to search on information of illicit manufacture or possession.

45. Whenever any excise-officer above the rank of a jamadár of peons, has reason to believe, from information given by any person (which information shall be taken down in writing)

that spirits are unlawfully manufactured,

or that any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, are kept or concealed in any house, boat or other place,

such officer may, between sunrise and sunset (but always in the presence of an officer of Police not being under the grade of a jamadár), enter into any such house, boat or place,

and in case of resistance may break open any door, and force and remove any other obstacle to such entry ;

and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs ;

and may also arrest the occupier of the house, boat or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

Police, customs, and revenue-officers may exercise powers of excise-officers.

46. [a] The powers of seizure, search and arrest, given to excise-officers by the three last preceding sections, may, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be exercised also by the officers of the Police, Customs, and Revenue Departments according to their respective grades.

And the Local Government may confer on the officers of those departments, or of any of them, like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession thereof.

All such officers when so empowered, [b] as well as all Police, Customs and Revenue-officers when acting under the authority conferred by this section for the suppression of illicit dealings in opium, shall be deemed to be excise-officers within the meaning of this Act.

Excise-officer to report arrests, &c.

47. Whenever an excise-officer arrests any person,

or seizes any still, or any liquors or drugs liable to confiscation under this Act,

or enters any house, boat or place for the purpose of searching for any such illicit articles,

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest or seizure, or search, to his official superior, and, unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch to the Magistrate for trial or adjudication.

and to take person arrested to Magistrate.

Collector may issue warrant of arrest in certain cases.

48. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.

[a] This section will be repealed, so far as it relates to opium, by Act No. XXIII of 1876, as soon as that Act is brought into force by notification under Act No. VI of 1877.

[b] The words in this clause *from* "as well as" *to* "dealings in opium" (both inclusive) will be repealed by Act No. XXIII of 1876, as soon as that Act is brought into force by notification under Act No. VI of 1877.

Collector may issue search-warrant.

49. The Collector may issue his warrant for the search of any house, boat or place, in which, upon any of the grounds mentioned in the last preceding section, he has reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed.

Such warrant may be executed by any officer above the rank of a jamadár of peons, at the time and in the manner prescribed in section forty-five.

Special warrant authorizing search between sunset and sunrise.

Whenever the Collector thinks that the search should be made between sunset and sunrise on any particular day, he shall issue a warrant specially authorising the search to be so made. Such warrant may be executed by any officer above the rank of a jamadár of peons, in the manner prescribed in section forty-five and shall cease to be in force at sunrise on the day next following.

Procedure after arrest or seizure.

50. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

Police to assist excise-officers.

51. All Police-officers are required to aid the excise-officers in the due execution of this Act, upon notice given or request made by such officers.

VIII.—Penalties.

For constructing or working distillery without license.

52. Whoever constructs or works a distillery after the English method, without a license from the Collector, shall for every such offence be punished with fine not exceeding one thousand rupees;

and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

For non-observance of rules prescribed by Chief Revenue Authority.

53. Every proprietor or manager of a licensed distillery constructed and worked after the English method, who omits to furnish any notice or any statement or list required by the rules prescribed by the Chief Revenue Authority under section six, or wilfully does anything in contravention of the said rules, shall for every such offence be punished with fine not exceeding two hundred rupees;

and if any such offence be committed a second time with respect to the same distillery, the Collector may withdraw the license granted for the working of such distillery.

For removing spirituous liquors without payment of duty.

54. Whoever removes or attempts to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which the Collector has not issued a pass, shall for every such offence be punished with fine not exceeding one thousand rupees;

and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the Collector may withdraw the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed.

For irregular re-land of spirituous liquors.

55. Whoever re-lands, or attempts to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of revenue at the place of exportation, shall for every such offence be punished with fine not exceeding five hundred rupees;

and the liquors, together with the casks and vessels containing the same, and the carts, boats and animals employed in carrying them, shall be liable to confiscation.

For working brewery without license.

56. Whoever constructs or works a brewery, or manufactures malt liquor, without a license, shall for every such offence be punished with fine not exceeding five hundred rupees.

For refusing to produce license.

For breach of license.

57. Every person licensed to manufacture country-spirits or to sell spirituous or fermented liquors or intoxicating drugs, who fails to produce his license on the demand of any excise-officer, or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall for every such offence be punished with fine not exceeding fifty rupees.

For sale in contravention of license.

58 Every licensed retail-vendor, who sells any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by this Act, and every licensed wholesale-vendor who makes a retail-sale, shall for every such offence be punished with fine not exceeding two hundred rupees:

Proviso.

Provided that nothing in this section shall be held to prohibit the grant to the same person of both wholesale and retail-licenses, subject to the provisions of this Act.

For permitting drunkenness, &c., in shop.

59. Every person licensed to sell spirituous or fermented liquors or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for liquors or drugs, shall for every such offence be punished with fine not exceeding two hundred rupees.

For conveying country-spirits from distillery without pass, &c.

60. Whoever conveys or attempts to convey any country-spirits from a distillery established under section seven without a pass, or exceeding the quantity for which a pass has been granted,

or introduces or attempts to introduce any country-spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector,

shall for every such offence be punished with fine not exceeding five hundred rupees.

61. Whoever wilfully contravenes any rule prescribed by the Chief Revenue Authority for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding section, shall for every such offence be punished with fine not exceeding fifty rupees. For contravening rules prescribed by Chief Revenue Authority.

62. Every person other than a licensed manufacturer who manufactures any country-spirits, For illicit manufacture or sale of country-spirits, &c.

and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who sells any spirituous or fermented liquors, or intoxicating drugs,

and every person authorized to supply licensed vendors, who sells any such liquors or drugs to any person other than a licensed vendor,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Nothing in this section or in section twelve applies to the sale by auction of any spirituous liquors, wines or beer purchased by any person for his private use and so disposed of upon his quitting a station or after his decease. Proviso.

63. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who has in his possession any larger quantity of country-spirits, or tárí, or pachwái, or intoxicating drugs except opium[a] than may legally be sold by retail under the provisions of section nineteen, For illegal possession of country-spirits, &c.

or transports by land or by water, or has in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that behalf,

shall for every such offence be punished with fine not exceeding two hundred rupees;

and the liquors and drugs, together with the vessels, packages and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation:

Provided, that nothing in this section extends to any spirituous liquors, wines or beer purchased by any person for his private use and not for sale. Proviso.

64. The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of tárí the produce of the date-tree, when supplied or used for the manufacture of gúr or molasses; and the provisions of the said sections relat- Exceptions as to tárí, gánja and bhang.

[a] The words "except opium" will be repealed by Act No. XXIII of 1876 as soon as that Act is brought into force by notification under Act No. VI of 1877.

ing to the sale and possession of intoxicating drugs, do not apply to the sale and possession of gánja or bháng by the cultivators of the plants which produce those drugs respectively.

Every such cultivator selling gánja or bháng in breach of the prohibition contained in section twenty, shall for every such offence be punished with fine not exceeding five hundred rupees.

For possessing more opium than five tolas weight.

65.[a] Every person, other than a licensed vendor, who has in his possession a greater quantity of opium than five tolas weight, shall for every such offence be punished with fine not exceeding five hundred rupees, unless the opium found in his possession exceeds the weight of thirty-one sers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen rupees the ser for all the opium so found in excess of that weight; and the opium, together with the vessels, packages, and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation.

Exception in favour of—

66. Nothing in section sixty-five applies to the persons and circumstances hereinafter specified, namely:—

Opium-cultivators,

(*a*) authorized opium-cultivators having newly extracted opium in their possession during the usual period between the full growth of the poppy and the delivery of the produce to the Opium Agent:

Travellers,

(*b*) travellers and visitants from foreign States or countries having in their possession any quantity of foreign opium not exceeding two sers, or, in British Burma, five tolas, the produce of such foreign States and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or barter:

and horse-dealers.

(*c*) dealers in horses travelling with strings of horses from beyond the limits of British India, and having in their possession opium, the produce of foreign States or countries, not exceeding in quantity the proportion of ten tolas weight for each horse.

For possession of excessive quantity of opium by travellers, &c.

If opium be found in the possession of any such traveller, visitant, or dealer in horses in excess of the quantities above specified, such excess shall be liable to confiscation; but the person in whose possession it may be found shall not be subject to any further penalty.

For sale of adulterated opium, &c. by licensed vendors.

67. Every licensed vendor, who sells or offers for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which he has taken out a license,

or who, except in districts exempted from the operation of section eighteen, sells or has in his possession any opium other than the opium supplied to him from the Government stores,

[a] Sections 65 to 67 will be repealed by Act No. XXIII of 1876 as soon as that Act is brought into force by notification under Act No. VI of 1877.

shall for every such offence be punished with fine not exceeding five hundred rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized and confiscated.

For conniving at illicit manufacture or sale of spirits, &c.

68. Every proprietor, farmer, tahsíldár, gumáshta or other manager of land, who authorizes or connives at the manufacture of country-spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall for every such offence be punished with fine not exceeding five hundred rupees.

On police neglecting to assist.

69. Any Police-officer who, without lawful excuse, neglects or refuses to assist as aforesaid, and any dárogha or other officer in charge of a Police-station, who, on application made by an excise-officer under section forty-five, fails to attend a search himself, or to depute a subordinate officer not being below the grade of a jamadár, shall for every such offence be punished with fine not exceeding five hundred rupees.

For maliciously giving false information.

70. Whoever maliciously gives false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procures that such person be arrested or that any house, boat or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall for every such offence be punished with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both.

Such fine, or any part thereof, may be paid to the person aggrieved.

For vexatious search or seizure.

71. Any excise-officer who, without reasonable ground of suspicion, searches or causes to be searched any house, boat or other place,

or vexatiously and unnecessarily seizes the moveable property of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act,

or vexatiously and unnecessarily arrests any person,

or commits any other excess not required for the execution of his duty,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

On excise-officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate.

72. Any excise-officer who neglects to report the particulars of an arrest, seizure or search within twenty-four hours thereafter, or delays carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized under this Act, shall for every such offence be punished with fine not exceeding two hundred rupees.

For conniving at escape of persons arrested, &c.

73. Any excise-officer unlawfully releasing or conniving at the escape of any person arrested under this Act, or conniving at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person, contrary to the terms of the license, or acting in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the excise-revenue defrauded;

and any officer invested with local jurisdiction, authorizing or conniving at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Adjudication of penalties and seizures.

74. All fines leviable for offences against this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any excise-officer:

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under section fifty-nine, sixty-nine, seventy, seventy-one, seventy-two or seventy-three.

Procedure in cases other than those of persons sent in custody by Collector or excise-officer.

75. In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or excise-officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

The rules contained in the Code of Criminal Procedure, for the trial of cases before a Magistrate and for appeal against orders passed by a Magistrate, shall apply to trials under this Act:

Provided that no complaint or information of an offence against this Act shall be admitted, unless it be preferred within six months after the commission of the offence to which the complaint or information refers.

Punishment on second or subsequent conviction.

76. Whenever any person is convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty provided for such offence, to imprisonment for a term not exceeding six months.

A like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Confinement in civil jail.

77. Every person imprisoned for an offence under section fifty-nine, sixty-nine, seventy, seventy-one, seventy-two or seventy-three, shall be confined in the criminal jail, and every person imprisoned for an offence under any other section shall be confined in the civil jail.

78. All things confiscated under this Act, except opium,[a] shall be disposed of by the Collector by public sale. Disposal of confiscated goods.

Opium so confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be sent to the Government factories, or otherwise disposed of in such manner as the Chief Revenue Authority directs. If declared to be unfit for use, it shall be immediately destroyed.

79. One-half of all fines levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles [[b]except opium, and in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each ser,] shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender. Disposal of fines, &c., as rewards.

The other half of such fines and forfeitures, and the other half of the proceeds of sale, [[c]or in the case of opium as aforesaid a reward of one rupee eight annas for each ser] shall be given to the informer.

If in any case the fine or forfeiture is not realized, the Chief Revenue Authority may grant such reasonable reward, not exceeding two hundred rupees, as may seem fit; and such Authority may direct by general order what classes of excise-officers shall receive rewards, and what classes shall have no title to share therein. Rewards where no fine is realized.

80. All fines levied under this Act, the disposal of which is not especially provided for, shall belong to Government. Fines undisposed of to belong to Government

But the Chief Revenue Authority may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act. Special rewards to informers.

IX.—Military Cantonments.

81 Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirits, or for the sale of spirituous and fermented liquors, shall be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, unless with the knowledge and consent of the commanding officer; Rules respecting manufacture and sale of spirits, &c, in military cantonments.

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[a] The words "except opium" in paragraph 1, and paragraph 2, of section 78, will be repealed by Act No. XXIII of 1876 as soon as that Act is brought into force by notification under Act No VI of 1877.

[b, c] The words in brackets in section 79 will also be repealed by Act No. XXIII of 1876 at the same time

and upon his requisition any license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately withdrawn.

Mode of making arrest or search within military cantonments.

82. In all other respects, the foregoing provisions of this Act shall have effect within such limits or distance:

Provided that, when arrest or search is to be made within the limits of any cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the commanding officer, and in all other cases shall report the arrest or search to such commanding officer with as little delay as possible.

Provided also that nothing herein contained shall affect the provisions of Act No. XXII of 1864[a] (*to make provision for the Administration of Military Cantonments*).

X.—Miscellaneous.

Drawback on exportation

83. A drawback of the duty levied under Part IV of this Act on spirits manufactured after the English method, and exported by sea to Aden or any port not situate in British India, shall be allowed by the Collector of Customs at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the custom-house, be accompanied by the pass in which such payment is certified.

The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits, as ascertained by such proof and gauge.

The quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

Drawback when not allowed.

84. No drawback shall be allowed on spirits exported to any port in British India except Aden, or on spirits shipped as stores.

Recovery of sums due under bond.

85. Any sum remaining due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Appeals from orders and sentences under Act.

86. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner under the rules in force relative to appeals from the orders of Collectors.

[a] See General Acts, vol. II, p. 672.

87.[a] In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents and Sub-Deputy Agents shall exercise the powers conferred by this Act on Collectors, so far as the same relate to the suppression of illegal dealings in opium; Powers vested in officers of Opium Department.

and the officers of the Opium Department shall exercise the powers conferred by this Act on excise-officers for the seizure of illicit opium and the arrest of persons found in possession thereof; and in respect to such seizures and arrests, shall be deemed to be excise-officers within the meaning of this Act.

ACT No. XVIII OF 1871.

Received the Governor General's assent on the 6th of April 1871.

An Act for the levy of rates on Land in the North-Western Provinces.

WHEREAS it is expedient to provide, in the North-Western Provinces of the Presidency of Fort William, for the levy on land of rates to be applied to local purposes; It is hereby enacted as follows:— Preamble.

I.—Preliminary.

1. This Act may be called "The North-Western Provinces Local Rates Act, 1871:" Short title.

It extends only to the territories subject to the Lieutenant-Governor of the North-Western Provinces. Extent of Act.

2. In this Act— Interpretation-clause.

"Commissioner" means Commissioner of a Division;

"Collector" means the Head Revenue-officer of a district;

"Land" means land used for agricultural purposes, or waste-land which is cultivable;

"Tenant" means any person using or occupying land, and liable to pay or deliver rent therefor;

"Landlord" means the person responsible for the payment of the Government land-revenue, if any, assessed on an estate, and includes a muáfidár, nazránádár or other person holding land, whereof the revenue has, either wholly or in part, been released, compounded for, redeemed or assigned;

"Estate" means all or any part of a village separately assessed to the land-revenue, or separately exempt from the payment thereof.

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[a] This section will be repealed by Act No. XXIII of 1876 as soon as that Act is brought into force by notification under Act No. VI of 1877

II.—Rates on Land in Districts of which the Settlement is liable to Revision.

Rate on estates where settlement has expired.

3. Every estate situate in any district in which the term of the settlement of the land-revenue made under Regulation IX of 1833[a] has expired, shall be liable to the payment of such rate, not exceeding five per cent. on its annual value, as the Lieutenant-Governor from time to time imposes.

Such rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate:

Provided that, in estates in which, before the passing of this Act, provisional engagements have been taken from the landlord for the payment of the land-revenue and cesses in one consolidated sum, and in which it appears to the Lieutenant-Governor inexpedient to cancel such engagements, one-eleventh part of such sum shall be deducted on account of such cesses, and shall be treated in all respects as if it were a portion of a rate levied under the former part of this section.

"Annual value" means as follows:—

(1). In cases in which the settlement of the land-revenue is liable to periodical revision, it means double the amount of the land-revenue for the time being assessed on an estate;

(2). In cases in which such settlement is not liable to such revision, or in which the land-revenue has been, wholly or in part, released, compounded for, redeemed or assigned, it means double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue on the estate.

III.—Rates on Land in Estates of which the Land-revenue is not liable to periodical Revision.

Rate on estates where revenue is not periodically revised.

4. Every estate situated in a district of which the land-revenue is not liable to periodical revision, shall be liable to the payment of such rate as the Lieutenant-Governor from time to time imposes, not exceeding two annas for each acre under cultivation, or which has been cultivated within the three years next before the assessment of the rate.

Rate to be paid by landlord.

5. The rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate, and in addition to the cess levied now on account of roads.

Rules for ascertaining area of assessable land.

6. The Lieutenant-Governor shall from time to time prescribe rules for ascertaining the area of the land assessable under section four.

Landlord's

7. The landlord may recover, from every tenant of land on which such

[a] See *supra*, p. 101.

rate has been assessed, and for the payment of which the landlord is liable, an amount equal to one-half of the rate assessed on the land held by such tenant. right to recover half rate from tenants.

8. The Lieutenant-Governor may from time to time make rules consistent with this Act for determining the cases in which a landlord shall be entitled to recover, from tenants holding at fixed or beneficial rates of rent, the whole or any portion of the rate assessed on the land held by such tenants. Power to make rules as to when landlord may recover rates from certain tenants.

IV.—Manner in which the Rates are to be expended.

9. The proceeds of all rates levied under this Act shall be carried to the credit of a general provincial fund. Rates to be carried to general fund.

10. The Lieutenant-Governor may from time to time assign from such fund such amount as he thinks fit, to be applied in payment of charges incurred or to be incurred on account of such canals and railways as he, with the previous sanction of the Governor General in Council, may declare to be works of general provincial utility, and he shall from time to time allot from such fund an amount to be applied in each district for expenditure on all or any of the following purposes:— Assignments from general fund.

(a) the construction, repair and maintenance of roads and communications;

(*b*) the maintenance of the rural police and district-post;

(*c*) the construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships;

(*d*) the construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells and tanks; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience:

Provided that the amount assigned in respect of such canals and railways shall not exceed ten per cent. of the total sum levied under this Act in the year in which the assignment was made, and that the amount allotted to be applied in each district for expenditure on all or any of the purposes mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of this section shall be at least ninety per cent. of the total sum levied under this Act in such district in the year in which the allotment was made. Proviso.

11. In the case of works which benefit more districts than one, the Local Government may determine what proportion of the expense of the work shall be borne by each of the districts benefited thereby, and such proportion shall be payable out of the assignments[a] made as aforesaid to such districts respectively. Works benefiting several districts.

[a] *Sic.* Read 'allotments.'

Unexpended portion of allotment.

12. Any portion of such allotment remaining unexpended at the end of the financial year in which the allotment was made may, at the discretion of the Lieutenant-Governor, be re-allotted for expenditure in the same district, or may be applied for the benefit of the North-Western Provinces, in such manner as the Lieutenant-Governor from time to time directs.

Accounts to be kept.

13. Accounts of the receipts in respect of all rates levied under this Act, and of the receipts and expenditure of such allotment, shall be kept in each district.

Such accounts shall, at all reasonable times, be open to the inspection of the Local Committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

Local Committees.

14. The Local Government shall appoint, in each district, a Committee, consisting of not less than six persons, for the purpose of determining how the allotment mentioned in section ten shall be applied, and in the supervision and control of such allotment:

Provided that not less than one-half of the members of such Committee shall be persons not in the service of Government, and owning or occupying land in the district, or residing therein.

The Lieutenant-Governor shall, from time to time, prescribe the manner in which the members of such Committee shall be appointed or removed, and shall define the functions and authority of such Committee.[a]

V.—Miscellaneous.

Suits under Act cognizable by Collector.

15. Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Collector as if such suits had been included among the suits mentioned in section ninety-four of the North-Western Provinces Rent Act, 1873,

and appeals from decisions in such suits shall be cognizable in accordance with the provisions of the North-Western Provinces Rent Act, 1873.

Limitation of appeals.

16. In matters connected with the assessment and collection of any sum leviable under this Act, an appeal shall lie to the Commissioner from the order of the Collector, provided that such appeal be presented within thirty days from the date of the order.

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[a] As to appointment of committees under this section, see *North-Western Provinces Gazette*, 12th July, 1871, pp. 841, 842: *ibid.*, 26th July, 1871, pp. 894, 895.

The Commissioner's decision on such appeal shall be final; but all such decisions may be reviewed by the Board of Revenue.

Power to invest subordinate officers with powers of Collector.

17. The Lieutenant-Governor may invest any officer subordinate to a Collector with all or any of the powers of a Collector for the purposes of this Act.

The orders passed by any officer so invested shall be subject to revision by the Collector of the district.

Recovery of rates.

18. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land-revenue due on the land on account of which the rate is payable.

Supplementary powers of Local Government.

19. The Lieutenant-Governor may, by notification from time to time,

(*a*) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be assessed, collected and paid;

(*b*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(*c*) exempt any portion of the territories under his government from the operation of this Act, or exempt any estate from liability to pay the whole or any part of any rate under this Act;

(*d*) direct fresh measurements and vary the assessment accordingly.

Every notification under this section shall be published in the *Government Gazette, North-Western Provinces.*[a]

ACT No. XIX OF 1871.

Received the Governor General's assent on the 12th of May 1871.

An Act to provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.

Preamble.

WHEREAS it is expedient to provide for the appointment of Sessions Judges in the territories respectively under the governments of the Lieutenant-Governors of the Lower and North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

1 to **6.** [*Repealed by Act No. X of 1872.*]

Indemnity-clause.

7. No judgment heretofore given, order passed, or proceeding had before any person who at any time has been appointed a Sessions Judge or Additional Sessions Judge or who has been empowered to act as such in Bengal or the North-Western Provinces, shall be deemed to be or to have been invalid, and no suit shall lie in any Court in respect of any such judgment, order or proceeding, merely on the ground that such Sessions Judge or Additional Sessions Judge or person empowered to act as such was not appointed or empowered in conformity to law.

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[a] As to assessment of acreage-tax in permanently settled districts, see *North-Western Provinces Gazette*, 14th June, 1871, pp. 737-739.

ACT No. XXI of 1871.

Received the Governor General's assent on the 11th of July 1871.

An Act to give validity to the operation of the General Regulations and Acts within the Dehrá Dún.

Preamble

WHEREAS it is necessary to give validity to the operation of the general Regulations and Acts within the district under the Superintendent of the Dehrá Dún; It is hereby enacted as follows:—

Extension of Regulations and Acts in force in Saháranpúr to Dehrá Dún and confirmation of past proceedings.

1. The Regulations and Acts now in force in the district of Saháranpúr are hereby declared to extend to the said district of Dehrá Dún, and no judgment heretofore given, order passed or proceeding had in the said district, shall be deemed to have been or to be invalid merely because any Regulation or Act, under or in reference to which such judgment, order or proceeding was given, passed or had, was not in force at the time of such judgment, order or proceeding, or on the ground of a defect of jurisdiction in any Court or officer.

Jurisdiction of High Court and Board of Revenue, North-Western Provinces, over Dehrá Dún

2. The High Court and the Board of Revenue of the North-Western Provinces shall exercise, and shall be deemed to have been heretofore authorized to exercise, respectively in the said district, all the powers which the said High Court or Board of Revenue are at present respectively authorized to exercise in any part of the North-Western Provinces.

District Court of Saháranpúr deemed District Court of Dehrá Dún.

3. The District Court of Saháranpúr shall be deemed to have been heretofore the District Court of the said district of Dehrá Dún, and shall be the District Court of such district until the Local Government otherwise directs; and may, subject to the provisions of Act VI of 1871,[a] hear appeals from decisions given in the said district before the passing of this Act.

Exemption of Jaunsár Báwar.

4. Nothing in this Act shall apply to that portion of the Dehrá Dún district called Jaunsár Báwar and referred to in section eleven of Act XXIV of 1864.[b]

ACT No. XXII of 1871.

Received the Governor General's assent on the 1st of August 1871.

An Act to authorize the extension of the Chaukídárí Act to places where there is no Jamadár of Police.

Preamble.

WHEREAS by Act No. XX of 1856[c] (*to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs*

[a] See *supra*, p 172. [b] Repealed by Act No. XV of 1874.
[c] See *supra*, p 110.

and Bázárs in the Presidency of Fort William in Bengal), section two, the Local Government is restrained from extending that Act to any City, Town, Suburb or Bázár, unless there be therein (or in some other City, Town, Suburb or Bázár with which the same may be united as thereinafter provided) a Police-station under an officer of a grade not below that of a Jamadár; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows :—

Amendment of section two, Act No. XX of 1856.

1. Instead of the second section of the said Act, the following shall be read :—

[*Vide supra, p. 110.*]

Amendment of section eleven.

2. Instead of section eleven of the said Act, the following shall be read :—

[*Vide supra, p. 111.*]

Amendment of section thirty-eight.

3. Instead of section thirty-eight of the said Act, the following shall be read :—

[*Vide supra, p. 116.*]

Amendment of section forty-one.

4. In the forty-first section of the said Act, instead of the words "on the 20th of each calendar month," there shall be read the words "on the tenth day after the date fixed for the payment of instalments of the tax."

Amendment of appendices A and C.

5. In appendix A, at the end of the first paragraph, the words "and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop or building in the district," shall be omitted.

In appendix C the words "the first payment on the tenth day of the month next succeeding the date of this notification, and every subsequent payment on or before the tenth day of each succeeding month," shall be omitted.

Construction.

6. This Act shall be read with, and taken as part of, the said Act XX of 1856, but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal.

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THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.

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ACT No. VIII of 1873.

Received the Governor General's assent on the 11th of February 1873.

An Act to regulate Irrigation, Navigation and Drainage in Northern India.

Whereas, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to Irrigation, Navigation and Drainage in the said territories; It is hereby enacted as follows:— Preamble.

PART I.

Preliminary.

1. This Act may be called "The Northern India Canal and Drainage Act, 1873": Short title.

It extends to the territories for the time being respectively under the Local extent.

government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh and the Central Provinces; and applies to all lands whether permanently settled, temporarily settled, or free from revenue;

2. [*Repealed by Act No. XVI of 1874.*]

Interpretation-clause.

3. In this Act—unless there be something repugnant in the subject or context—

"Canal."

(1) "Canal" includes—

(*a*) all canals, channels and reservoirs constructed, maintained or controlled by Government for the supply or storage of water;

(*b*) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(*c*) all water-courses as defined in the second clause of this section;

(*d*) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act;

"Water-course."

(2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel;

"Drainage-work."

(3) "Drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;

"Vessel"

(4) "Vessel" includes boats, rafts, timber and other floating bodies;

"Commissioner."

(5) "Commissioner" means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;

"Collector."

(6) "Collector" means the head revenue officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector;

"Canal-officer"

(7) "Canal-officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

"Superintending Canal-officer."

"Superintending Canal-officer" means an officer exercising general control over a canal or portion of a canal;

"Divisional Canal-officer."

"Divisional Canal-officer" means an officer exercising control over a division of a canal;

"Sub-Divisional Canal-officer."

"Sub-Divisional Canal-officer" means an officer exercising control over a sub-division of a canal;

"District."

(8) "District" means a district as fixed for revenue purposes.

Power to appoint officers.

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section three, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

PART II.

Of the Application of Water for Public Purposes.

Notification to issue when water-supply is to be applied for public purposes.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work,

the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of Canal-officer.

6. At any time after the day so named, any Canal-officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to claims for compensation.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him.

Damage for which compensation shall not be awarded.

8. No compensation shall be awarded for any damage caused by—

(*a*) stoppage or diminution of percolation or floods;

(*b*) deterioration of climate or soil;

(*c*) stoppage of navigation, or of the means of drifting timber or watering cattle;

(*d*) displacement of labour.

Matters in respect of which compensation may be awarded.

But compensation may be awarded in respect of any of the following matters:

(*e*) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification:

(*f*) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;

(*g*) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification:

(*h*) Damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871, Part IV:

(*i*) Any other substantial damage, not falling under any of the above clauses (*a*), (*b*), (*c*) or (*d*), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual nett profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clause (*e*), (*f*) or (*g*) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1871, Part IV.

And no right to any of the advantages referred to in clauses (*a*), (*b*) and (*c*) of this section shall be acquired, as against the Government, under the same Part.

Limitation of claims.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claims and amount of compensation.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections nine to twelve (inclusive), fourteen and fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, fifty-seven, fifty-eight and fifty-nine of the Land Acquisition Act, 1870,[a] shall apply to such enquiries:

Provided that, instead of the last clause of the said section twenty-six, the following shall be read: "The provisions of this section and of section eight of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

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[a] See General Acts, vol II, p 1226.

Abatement of rent on interruption of water-supply.

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section eight, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Enhancement of rent on restoration of water-supply.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation when due.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of,

Interest.

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

PART III.

Of the Construction and Maintenance of Works.

Power to enter and survey, &c.

14. Any Canal-officer or other person acting under the general or special order of a Canal-officer,

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal-officer:

Power to clear land.

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating

regulate water supply.

the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal:

Notice of intended entry into houses.

Provided that, if such Canal-officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.

In every case of entry under this section, the Canal-officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Power to enter for repairs and to prevent accidents.

15. In case of any accident happening or being apprehended to a canal, any Divisional Canal-officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

In every such case, such Canal-officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal-officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section forty-three of the Land Acquisition Act, 1870.

Application by persons desiring to use canal-water.

16. Any persons desiring to use the water of any canal, may apply in writing to the Divisional or Sub-Divisional Canal-officer of the division or sub-division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Contents of application.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal-officer, and how the payment is to be made.

Liability of applicants for cost of works.

When the assent of the Superintending Canal-officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Recovery of amount due.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal-officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand

of such officer, be recoverable by the Collector as if it were an arrear of land-revenue.

Government to provide means of crossing canals.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

Persons using water-course to construct works for passing water across roads, &c.

18. The Divisional Canal-officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

If they fail, Canal-officer may construct,

Such order shall specify a reasonable period within which such construction or repairs shall be completed;

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal-officer, he may, with the previous approval of the Superintending Canal-officer, himself construct or repair the same;

and recover cost.

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal-officer, the amount shall, on the demand of the Divisional Canal-officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

Adjustment of claims between persons jointly using water-course.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-divisional Canal-officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Recovery of amount found due.

Any sum directed by such order to be paid within a specified period, may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue.

Supply of water through intervening water-course.

20. Whenever application is made to a Divisional Canal-officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Divisional Canal-officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal-officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal-officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal-officer, stating—

(1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for acquiring such right;

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Canal-officer thereupon.

22. If the Divisional Canal-officer considers—

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceed-

ings, and the amount of any compensation which he considers likely to become due under section twenty-eight ;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Application for transfer of existing water-course.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal-officer, stating—

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course ;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for procuring such transfer ;

(3) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Divisional Canal-officer considers—

(*a*) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section twenty-eight in respect of such transfer ;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

Objections to construction or transfer applied for.

24. Within thirty days from the publication of a notice under section twenty-two or section twenty-three, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal-officer of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

When applicant may be

25. If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal-officer to

placed in occupation.

that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

Procedure when objection is held valid.

26. If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal-officer accordingly; and, if such officer sees fit, he may, in the case of an application under section twenty-one, alter the boundaries of the land so marked out, and may give fresh notice under section twenty-two; and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

Procedure when Canal-officer disagrees with Collector.

27. If the Canal-officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section twenty-eight, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

Expenses to be paid by applicant before receiving occupation.

28. No such applicant shall be placed in occupation of such land or water-course, until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1870;[a] but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

First.—All works necessary for the passage across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be

[a] See General Acts, vol. II, p 1226.

maintained by him or his representative in interest to the satisfaction of the Divisional Canal-officer.

Second.—Land occupied for a water-course under the provisions of section twenty-two shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Divisional Canal-officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge,

Fourth.—the applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

Procedure applicable to occupation for extensions and alterations.

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

PART IV.

Of the Supply of Water.

In absence of written contract, water-

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the

supply to be subject to rules.

rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

Conditions as to—

32. Such contracts and rules must be consistent with the following conditions:—

power to stop water-supply;

(*a*). The Divisional Canal-officer may not stop the supply of water to any water-course, or to any person, except in the following cases:—

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the local Government;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;

(3) within periods fixed from time to time by the Divisional Canal-officer:

claims to compensation in case of failure or stoppage of supply;

(*b*). No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal-officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government:

claims on account of interruption from other causes;

(*c*). If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss:

duration of supply;

(*d*). When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

sale or subletting of right to use canal-water;

(*e*). Unless with the permission of the Superintending Canal-officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use: Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant:

But all contracts made between Government and the owner or occupier of any immovable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place: transfer, with land, of contracts for water.

(f). No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1871,[a] Part IV, nor shall Government be bound to supply any person with water except in accordance with the terms of a contract in writing. No right acquired by user.

PART V.

Of Water-rates.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, Liability when person using unauthorizedly cannot be identified.

the person on whose land such water has flowed if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

34. If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted. Liability when water runs to waste.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste. Charges recoverable in addition to penalties.

All questions under section thirty-three or section thirty-four shall be decided by the Divisional Canal-officer, subject to an appeal to the head revenue-officer of the district, or such other appeal as may be provided under section seventy-five. Decision of questions under sections 33 and 34.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly. Charge on occupier for water how determined.

[a] See General Acts, vol II, p 1355

'Occupier's rate.' 'Owner's rate.'

A rate so charged shall be called the 'occupier's rate.'

37.[a] In addition to the occupier's rate a rate to be called the 'owner's rate' may be imposed, according to rules to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

Amount of owner's rate.

38.[b] The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner's rate when not chargeable.

39.[c] No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.

When occupier is to pay both owner's rate and occupier's rate.

40. If such land is occupied by the owner,

or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land has or have been increased by irrigation,

such owner or tenant shall pay the owner's rate as well as the occupier's rate.

Power to make rules for apportioning owner's rate.

41. In the case of a tenant with a right of occupancy, the Local Government shall have power to make rules for dividing the owner's rate between such tenant and his landlord, proportionately to the extent of the beneficial interest of each in the land.

When owner is to pay owner's rate.

42. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land has or have been increased by irrigation;

or if, when the amount of rent was fixed, the land was irrigated from the canal,

the owner shall pay the owner's rate.

Effect of introduction of canal-irrigation on landlord's right to enhance.

43. If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal-irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

Water-rate by whom payable when

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or

a, b, c For rules under these sections, relating to assessment of owner's rate in estates irrigated by canals subsequently to settlement, see *North-Western Provinces Gazette*, September 19th, 1874, p. 1620: *ibid.*, October 10th, 1874, p. 1750: *ibid.*, January 23rd, 1875, p. 119. As to similar assessment on lands not assessed to Government revenue, *ibid.*, May 15th, 1875, p. 653.

profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits. charged on land held by several owners.

Recovery of Charges.

45. Any sum, lawfully due under this Part, and certified by the Divisional Canal-officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue. Certified dues recoverable as land-revenue.

46. The Divisional Canal-officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party. Power to contract for collection of canal-dues.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section forty-five; and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

47. The Collector may require the lambardár or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate. Lambardárs may be required to collect canal-dues.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate;

and for the purpose of collecting such sums from the subordinate zamíndárs, raiyats or tenants, such lambardár or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide

(*a*) for remunerating persons collecting sums under this section; or

(*b*) for indemnifying them against expenses properly incurred by them in such collection; or

(*c*) for both such purposes.

48. Nothing in sections forty-five, forty-six or forty-seven applies to fines. Fines excluded from sections 45, 46, 47.

PART VI.

Of Canal-navigation.

Detainer of vessels violating rules.

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal-officer, or by any other person duly authorized in this behalf.

Liability of owners of vessels causing damage.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Recovery of fines for offences in navigating canals

50. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Power to seize and detain vessel on failure to pay charges.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure for recovery of such charges after seizure.

53. Within a reasonable time after any seizure under section fifty-one or section fifty-two, the said Canal-officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And if such claim be not so discharged, the said Canal-officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

Procedure in respect of vessels abandoned and goods unclaimed.

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal-officer may take possession of the same.

The officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

Disposal of proceeds of sale.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal-officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal-officer.

If the Divisional Canal-officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district-treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

PART VII.

Of Drainage.

Power to prohibit obstructions or order their removal.

55. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, by notification published in the official Gazette,[a] prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

Power to remove obstructions

56. The Divisional Canal-officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the

[a] See *North-Western Provinces Gazette*, 2nd August, 1873, p. 938; 17th January, 1874, p. 169.

after prohibition.

person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal-officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

Preparation of schemes for works of improvement.

57. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of persons employed on such schemes.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal-officers by section fourteen.

Rate on lands benefited by works.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits:—

(1.) Six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate:

(2.) In the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works re-

quired for the remedy of the said defect shall be borne by such Government or such person as the case may be.

Recovery of rate.

60. Any such drainage-rate may be collected and recovered in manner provided by sections forty-five, forty-six and forty-seven, for the collection and recovery of water-rates.

Disposal of claims to compensation.

61. Whenever, in pursuance of a notification made under section fifty-five, any obstruction is removed or modified,

or whenever any drainage-work is carried out under section fifty-seven,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in section ten.

Limitation of such claims.

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART VIII.

Of obtaining Labour for Canals and Drainage-works.

Definition of 'Labourer.'

63. For the purposes referred to in this Part, the word 'Labourer' includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government.

Power to prescribe number of labourers to be supplied by persons benefited by canal.

64. In any district in which a canal or drainage-work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector

(*a*) to ascertain the proprietors, sub-proprietors or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(*b*) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

Procedure for obtaining labour for works urgently required.

65. Whenever it appears to a Divisional Canal-officer duly authorized by the Local Government, that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be

obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state

(*a*) the nature and locality of the work to be done,

(*b*) the number of labourers to be supplied by the person upon whom the requisition is made, and

(*c*) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal-officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers: provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor General in Council, direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

Liability of labourers under requisition.

66. When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

PART IX.

Of Jurisdiction.

Jurisdiction under this Act of Civil Courts.

67. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

Settlement of differences as to mutual rights and

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divi-

sional Canal-officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter. And, after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter. liabilities of persons interested in water-course.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a civil Court.

69. Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on civil Courts by the Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceeding. Power to summon and examine witnesses.

PART X.

Of Offences and Penalties.

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say,— Offences under Act.

(1) damages, alters, enlarges or obstructs any canal or drainage-work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work;

(3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work;

(4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;

(8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour;

(10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;

(11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

Penalty.

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Saving of prosecution under other laws.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Compensation to person injured.

72. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Power to arrest without warrant.

73. Any person in charge of or employed upon any canal or drainage-work, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences:

(1) wilfully damages or obstructs any canal or drainage-work;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work.

Definition of 'Canal.'

74. In this Part the word 'Canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands.

PART XI.

Of subsidiary Rules.

Power to make, alter

75.[a] The Local Government may, from time to time, with the previous

[a] For rules under this section, as to water-rates on lands irrigated from Agrá canal, see *North-Western Provinces Gazette*, 21st November, 1874, appendix, p. 1940: *ibid.*, 28th November, 1874, p. 1956. Rates for canal-water passed into tanks by permission, *ibid.*, 25th March, 1876, p. 345: *ibid.*, 6th May, 1876, p. 532. Rates on land irrigated from Bandelkhand Lakes, *ibid.*, 20th May, 1876, p. 602. Rates on land irrigated from Ganges, Eastern Jamná, Dún and Rohilkhand canals, *ibid.*, 12th April, 1873, p. 429: from Nehtor and Nagginá canals, *ibid.*, 12th July, 1873, p. 859.

sanction of the Governor General in Council, make rules to regulate the following matters :— and cancel rules.

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done ;

(4) the amount of any charge made under this Act ;

(5) and generally to carry out the provisions of this Act.

The Local Government may from time to time, with the like sanction, alter or cancel any rules so made.

Such rules, alterations and cancelments shall be published in the local official Gazette, and shall thereupon have the force of law. Publication of rules.

NORTH-WESTERN PROVINCES AND OUDH MUNICIPALITIES ACT.

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ACT No. XV OF 1873.

Received the Governor General's assent on the 21st of November 1873.

An Act to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for other purposes.

Preamble. WHEREAS it is expedient to make better provision for the appointment of municipal committees in the North-Western Provinces and Oudh, and for the police, conservancy and local improvements, and for education, and for the levying of rates and taxes, in the places to which this Act may be extended; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The North-Western Provinces and Oudh Municipalities Act, 1873:"

Local extent. It extends to the territories for the time being respectively under the government of the Lieutenant-Governor of the North-Western Provinces and under the administration of the Chief Commissioner of Oudh.

Repeal of enactments. 2. Acts Nos. XVIII of 1864 (*to provide for the appointment of a Municipal Committee for the City of Lucknów*), XXII of 1865 (*to amend Act No. XVIII of 1864*), XV of 1867 (*to make better provision for the appointment of Municipal Committees in the Panjáb, and for other purposes*), and VI of 1868 (*to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes*) are repealed.

But all extensions and appointments made, and all limits defined, under any of the said Acts, shall be deemed to be respectively made and defined under this Act.

And all assessments, bye-laws, rules and regulations of any kind relating to matters provided for by this Act, which may heretofore have been made and approved by the Local Government, shall be deemed to have been made under this Act.

And all proceedings taken under any such assessment, bye-law, rule or regulation, shall be deemed to be as valid as if they had been taken under this Act.

Interpretation-clause. 3. In this Act, unless there be something repugnant in the subject or context—

"Committee." "Committee" means a municipal committee appointed under the provisions of this Act; and

"Municipality." "Municipality" means any town or towns to which this Act may be extended.

Power to extend Act. 4. The Local Government may, by notification published in the local official Gazette, declare its intention to extend this Act, or any of its provisions, to any town or towns in the territories under such Government.

Any inhabitant of such town objecting to such extension may, within six weeks from the date of the said publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration.

When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in its opinion, they are insufficient, may, by like notification, effect the proposed extension.

Power to define limits of places to which Act extends. 5. For the purposes of this Act, the Local Government may from time to time, by notification in the local official Gazette, define the limits of any town, and may include within the limits of such town any railway-station, village, building or land in the vicinity:

Provided that no cantonment shall, without the previous consent of the Governor General in Council, be included within the limits of any town for the purposes of this Act.

The Local Government may from time to time, by notification in the local official Gazette, declare to be united for the purposes of this Act any two or more towns, and may also declare by what name the municipality so formed shall be designated.

CHAPTER II.

Appointment of Municipal Committees.

Appointment of committees. 6. In any municipality to which this Act shall have been extended, the Local Government may appoint or direct to be appointed by election, for such period, not exceeding two years, as to it may seem fit, any number of the inhabitants of, or of persons possessing property or carrying on any trade or business in, such municipality, to be members of a committee for carrying out the purposes of the Act.

The persons so appointed shall continue in office for two years, or until their successors shall have been appointed, and shall be eligible for re-appointment.

In cases where the Local Government directs the appointment to be by election, it may fix the time and manner of the election and the qualifications of the electors, and of the candidates for office, and, generally, may make such rules as it thinks fit for regulating the election.

Removal of members.

7. The Local Government may, from time to time, remove any of the members of the committee so appointed who desire to be discharged, or refuse or become incapable to act, or are convicted of an offence punishable under the Indian Penal Code with imprisonment for a term of not less than six months.

Addition of members.

8. The Local Government may also fill up vacancies occurring among the members of the committee, and may, if it think fit, on the recommendation of the committee, add to their number.

Every member so appointed shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for re-appointment, as if he had been originally appointed a member under section six.

Ex officio members.

9. In addition to the members appointed as aforesaid, the Local Government shall have power to appoint *ex officio* members of the committee for every place in which they exercise their offices and to which this Act shall have been extended:

Provided that the number of such *ex officio* members shall not be more than one-third of the total number of the committee.

Appointment of president and vice-president.

10. The local Government may also appoint the president and vice-president, or either of them, of any committee, or sanction the election by any committee of one of their members as president or as vice-president.

Appointment of secretary.

The committee may appoint any one of their members or any other person to be their secretary.

Notification of appointments and removals of members.

11. All appointments and removals of members of a committee, made under this chapter, shall be notified in the local official Gazette.

CHAPTER III.

Office and Meetings of Committees.

Committee to have an office.

12. The committee shall have an office, where they shall meet for the transaction of business at least once in every month.

Rules as to meetings.

13. (*a*). The president, or, in his absence, the vice-president, shall take the chair at every meeting of the committee. In the absence of both the president and vice-president, the members present may elect a chairman for the occasion.

(*b*). The meetings shall be either general or special.

(*c*). The president or vice-president may, whenever he thinks fit, and he shall, upon a requisition made in writing by not less than one-fifth in number of the members, convene a meeting.

(*d*). Notice shall be given of every such meeting, and when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state generally the nature of the business to be transacted at the meeting proposed to be called.

(*e*). The quorum necessary for the transaction of business at a general meeting shall be three.

(*f*). The quorum necessary for the transaction of business at a special meeting shall be one-half of the total number of the members of the committee at the time of the meeting; and at least two-thirds of such quorum shall consist of non-official members.

(*g*). If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if summoned by the president or vice-president, shall be dissolved.

In any other case it shall stand adjourned to the same day in the next week at the same time and place. And if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

(*h*). All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting.

(*i*). All questions which may come before the committee at any meetings shall be decided by a majority of votes. Every member shall have one vote. In case of equality of votes, the chairman shall have a second or casting vote.

(*j*). Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local English or vernacular newspaper (if any), or in such other manner as the Local Government may from time to time direct.

Correspondence between committee and Local Government.

14. All correspondence between the committee and the Local Government shall pass through the Commissioner of the Division.

The Commissioner of the Division shall be entitled to make such suggestions for the consideration of the committee as he may deem fit; and the committee shall furnish him with any information he may call for connected with the duties imposed upon them by this Act.

CHAPTER IV.

Powers of Committees.

Power to make assessments and levy taxes.

15. Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf,

every committee intending to impose taxes for the purposes of this Act, shall from time to time give notice of such intention, and shall in such notice define the persons or property within the municipality to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed hereunder.

Any inhabitant of such town objecting to such notice may, within a fortnight from the date of the said notice, send his objection in writing to the

chairman of the committee, and the committee shall take such objection into consideration and report their opinion thereon to the Local Government.

When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in the opinion of the committee, they are insufficient, the committee may, with the previous sanction of the Local Government, to be notified in the official Gazette, define the persons or property to be taxed and the amount or rate of the taxes aforesaid, and may then at a special meeting impose such taxes accordingly.

The committee may, at a special meeting, with the same sanction, cancel or vary any tax so imposed.

Specification of taxes.

16. Such taxes may (subject to the rules or orders last aforesaid) be all or any of the following:—

(*a*).—A tax on houses, buildings and lands according to the annual value thereof, not exceeding seven and a half per cent. of such value:

(*b*).—A tax on professions and trades:

(*c*).—Taxes on carriages, horses, mules, elephants, camels, bullocks and asses:

(*d*).—Tolls on carriages, carts and animals entering the limits of the municipality:

(*e*).—An octroi on articles brought within the said limits for consumption or use therein: Provided that a list of such articles shall have been submitted to and approved by the Local Government: Provided also, that the Local Government may exempt from the octroi any such articles intended for consumption or use by any class of persons or animals.

Imposition of other taxes.

17. If the committee desire to impose any other or further tax than such as are hereinbefore specified, they may do so with the previous sanction of the Local Government and of the Governor General in Council, and subject to the provisions of section fifteen.

Taxes to be confirmed.

18. No tax shall be collected until the assessment thereof has been confirmed by such persons and in such manner as the Local Government appoints in this behalf.

Rules for confirmation and collection of taxes.

The Local Government may, from time to time, make rules as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed, and for the collection of such taxes.

The Local Government may, from time to time, repeal, alter or add to such rules.

No tax or rate invalid for defect of form.

19. No tax, or toll, or rate on property, made under this Act shall be invalid for defect of form; and it shall be enough, in any such rate on property, or any assessment of value for the purpose of making such rate, if the

property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Bye-laws and Rules.

Power of committees to make bye-laws.

20. Every committee may at a special meeting make bye-laws consistent with this Act, for regulating the time and place of their meeting, the conduct of their business, the division of duties among the members of the committee, the salaries, appointment, suspension and removal of the officers and servants of the committee, and other similar matters.

Enforcement of bye-laws and rules.

21. The committee may appoint one or more of their number to carry out their resolutions, and to enforce the bye-laws and rules made, under the provisions of this Act, for the protection of the public health, or they may appoint a special officer for such purposes.

Power to make rules as to nuisances, hire of carriages, and registration of births, marriages and deaths.

22. The committee may at a special meeting make rules

for declaring what acts or omissions within the municipality shall be considered to be public nuisances;

for defining the cases, manner and times in and at which the officers of the committee may enter upon private property for the detection and abatement of nuisances;

for determining the rates of hire of carriages, carts and boats plying for hire within the limits of the municipality;

for securing a proper registration of births, marriages and deaths,

and for carrying out all or any of the purposes of this Act.

The committee may from time to time, at a special meeting, repeal, alter or add to such rules.

Confirmation of rules.

23. No rule, and no alteration or repeal of, or addition to, a rule, made under this Act, shall have effect until it has been confirmed by the Local Government.

Publication of rules and bye-laws.

24. All bye-laws and rules made under this Act, and all alterations and repeals of, and additions to, such bye-laws and rules shall be published for such length of time and in such manner as the Local Government from time to time directs.

Nuisances.

Power to prohibit repetition or continuance of nuisances.

25. Every committee may enjoin within the limits of the municipality any person not to repeat or continue a public nuisance.

Every such injunction shall be deemed to have been made by a public servant.

Power to remove nuisances.

26. Every committee which the Local Government authorizes in this behalf may, so long as such authorization continues, exercise the powers of a Magistrate of a district as described in section five hundred and twenty-one

of the Code of Criminal Procedure, for the removal of nuisances; and in the exercise of such powers shall follow the procedure prescribed in sections five hundred and twenty-one to five hundred and twenty-eight (both inclusive) of the same Code.

Purchase and Sale of Land.

Power to buy and sell land for purposes of Act.

27. Any committee may at a special meeting, and with the previous sanction of the Local Government, purchase land for the purposes of this Act, and may at a like meeting and with the like sanction, sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the president and two of the members of the committee.

Receipts.

The receipt of the president and any two members of the committee for any monies paid to them upon any such sale, shall effectually discharge the persons paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or mis-application thereof; and the proceeds of any such sale shall be applied for the purposes of this Act.

Controlling Power of Local Government.

Cancellation and suspension of proceedings.

28. The Local Government may by order cancel, suspend or limit any of the acts, proceedings, bye-laws or rules of any committee.

Conduct of litigation.

To every suit or other proceeding brought against a committee, the Local Government shall be made a party.[a]

Abolition of taxes.

29. The Local Government may also abolish any tax which shall have been sanctioned under the provisions hereinbefore contained, but not so as to entitle any person to a refund of money paid in respect of such tax.

CHAPTER V.

Rights, Duties and Liabilities of Committees.

Municipal Fund.

Municipal Fund.

30. All sums received by the committee of any municipality to which this Act extends,

and all fines levied under this Act, or under Act No. V of 1861[b] (*for the regulation of Police*), on account of nuisances committed within the municipal limits,

and all receipts from property entrusted to and managed by the committee,

shall constitute a fund which shall be called the Municipal Fund of such municipality, and shall, together with all property which may become vested in

[a] See I. L. R. 1 All. 260.
[b] See General Acts, vol. I, p. 517.

such committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

Custody and disbursement of municipal fund.

31. The municipal fund shall, as a rule, be kept in the Government treasury of the district, or in the Bank (if any) to which the Government treasury business shall have been made over.

But in places where there is no such treasury or Bank, the said fund may, with the previous sanction of the Local Government, be deposited with any Banker, or person acting as a Banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government in each case thinks sufficient.

No disbursement of the municipal fund, or any part thereof shall be made except under the signature of the president or vice-president and one other member of the committee.

Duties and powers of committees.

32. Every committee, so far as the municipal fund at their disposal will permit, shall, after providing out of such fund for a police-establishment in the manner hereinafter mentioned, keep the public streets, roads, drains, tanks and water-courses of the municipality for which they are appointed, clean and in repair,

and may cause such streets and roads or any of them to be watered and lighted,

and may construct and provide for the management of poor-houses, dispensaries, market-places and other works of general utility,

and generally may do all acts and things necessary for the purposes of conservancy and general utility within their municipality.

The committee may also make provision, by the establishment of new schools or the aiding of already existing schools, or otherwise, for the promotion of education in their municipality.

Contracts.

33. Every contract made on behalf of any committee in respect of any sum exceeding twenty rupees, or in respect of any property exceeding twenty rupees in value, shall be in writing, and shall be signed by the president or vice-president and at least two other members of the committee, of whom one shall be an *ex officio* member. Unless so executed, it shall not be binding on the committee.

Municipal Police.

Provision for police.

34. Every committee shall provide in the first place, from its funds, for the maintenance of the police-establishment in the municipality.

The municipal police shall be appointed under such Act of the Governor General in Council as may be applicable to the town, and their number shall be fixed by the committee in consultation with the Inspector General of Police, subject to the final decision of the Local Government.

Police to aid in carrying out orders regarding nuisances.

35. Every officer of police in any municipality to which this Act shall have been extended, may take into custody without a warrant any person who, within his view, commits any of the offences mentioned in section thirty-four of Act No. V of 1861[a] (*for the regulation of Police*), and shall carry out the orders issued by the committee for the prohibition and prevention of public nuisances, or nuisances declared to be such by any rule made under this Act.

Annual Reports and Accounts.

Annual reports and accounts to be submitted.

36. Every committee shall annually, or oftener if directed by the Local Government to do so, submit reports of all works executed, or proceedings taken, by them under the authority of this Act, and also accounts of and relating to the Municipal Fund.

Such accounts shall be examined or audited in such manner as the Local Government from time to time prescribes.

The committee shall also submit, at such time and in such form as may be directed by the Local Government, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted, be published in such manner as the Local Government from time to time directs.

Rules as to cost and class of works.

37. The Local Government may, from time to time, make rules consistent with this Act, as to the cost and the class of works which the committee may execute, and the committee shall be legally bound to obey such rules.

Public Highways.

Right of committee in public highways.

38. All public highways in any municipality in which this Act is in force, not specially reserved by Government, together with all erections thereon and all materials thereof, shall be vested in and belong to the committee.

Land required for Public Purposes.

Acquisition of land for municipal purposes.

39. When any land within the limits of any municipality to which this Act is extended is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the committee cannot agree with the owner for the purchase thereof, the Local Government, on the recommendation of the committee, may notify in the local official Gazette that such land is required under the provisions of the Land Acquisition Act, 1870;[b]

and, on payment by the committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Suits by and against Committees.

Suits by and against Committees.

40. Every committee shall sue and be sued in the name of their president.

[a] See General Acts, vol. I, p. 517.

[b] See General Acts, vol. II, p. 1226.

Members not personally liable for contracts made by committee

41. No member of a committee shall be personally liable for any contract made or expense incurred by or on behalf of the committee, but the funds from time to time in the hands of the committee shall be liable for and chargeable with all contracts made in the manner above provided for.

Liability of members for breach of trust.

42. Every member of a committee shall be liable for any misapplication of money entrusted to the committee to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty; and he shall be liable to be sued for the same in such Court as the Local Government directs, as for money due to Government.

Notice previous to suing committee or their officers.

43. No suit shall be brought against a committee or any of their officers, or any person acting under their direction, for anything done under this Act,[a] until the expiration of one month next after notice in writing has been delivered or left at the office of the committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the cause of suit and not afterwards.

If any person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

CHAPTER VI.

Penalties and Prosecutions and Recovery of Taxes.

Penalty on member or servant of committee being interested in contracts made with committee.

44. No member of a committee, or servant of a committee, shall be interested directly or indirectly in any contract made with the committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred rupees:

Provided that no person shall by reason of being a shareholder in or member of any incorporated or registered Company be deemed interested in any contract entered into between such Company and the committee.

Penalty for infringement of rules or non-payment of fines.

45. Whoever infringes any rule made by a committee and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and in the case of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the committee of such infringement.

In default of payment of any fine imposed under this section, the defaulter shall, in the case of a continuing infringement, be liable to imprisonment for a term not exceeding one month; and in any other case, to imprisonment for a term not exceeding eight days.

[a] See I. L. R. 1 All. 271.

46. Prosecutions under this Act for infringements of rules may be instituted before any Magistrate by the committee or any person authorized by the committee in this behalf. Prosecutions.

47. All arrears of taxes imposed under this Act may be recovered as if they were fines, in the manner prescribed in section three hundred and seven of the Code of Criminal Procedure. Recovery of taxes.

ACT No. XVI of 1873.

Received the Governor General's assent on the 21st of November 1873.

An Act to consolidate and amend the law relating to Village and Road Police in the North-Western Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to the Village and Road-police in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows :— Preamble.

I.—Preliminary.

1. This Act may be called "The North-Western Provinces Village and Road-police Act, 1873 :" Short title.

So far as regards the repeal of Act No. III of 1869, this Act extends to the whole of British India : the rest of this Act extends only to the territories for the time being under the government of the Lieutenant-Governor of the North-Western Provinces. Local extent

2. [*Repealed by Act No. XVI of 1874.*]

II—Appointment of Village-police.

3. The nomination to the post of village-policeman shall be made by the zamíndár of the village, or, where there are more zamíndárs than one, by the lambardár as their representative, and where there are more lambardárs than one, the opinion of the majority (unless there is some special provision to the contrary in the village-administration-paper) shall prevail. Right of nomination of village-policemen.

4. Every person authorized to nominate to the office of village-policeman shall, within fifteen days after the occurrence of a vacancy in such office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the district. Obligation to nominate.

5. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate, or by some officer authorized by him in that behalf. Discretion to appoint or reject nominee.

6.—(*a.*) In default of such nomination within the said fifteen days, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy. Power to Magistrate to appoint.

Procedure in case of rejection of nominee.

(*b.*) If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such nomination has been made, but the nominee is again rejected, the Magistrate of the District shall appoint such person as he thinks fit to the vacancy.

III.—Appointment of Road-police.

Appointment of road-police.

7. Subject to the rules to be framed under section fourteen and for the time being in force, the Magistrate of the district may, from time to time, appoint persons to be the road-police of his district.

IV.—Duties of Village and Road-police.

Duties of village and road-policemen.

8. Every village-policeman and every road-policeman shall perform the following duties:—

(*a.*) He shall give immediate information to the officer in charge of the police-station appointed for his village or beat,

(1.) of every unnatural, suspicious or sudden death occurring in the village of which he is chaukídár, or within his beat;

(2.) of each of the following offences occurring in such village or on such beat, (that is to say) murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass, and

(3.) of all attempts and preparations to commit, and abetments of, any of the said offences:

(*b.*) He shall keep the Police informed of all disputes which are likely to lead to any riot or serious affray:

(*c.*) He shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (*a*), clause (2), of this section:

(*d.*) He shall observe, and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat:

(*e.*) He shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood:

(*f.*) He shall supply to the best of his ability any local information which a Magistrate or any officer of Police may require, and shall promptly execute all orders issued to him by competent authority.

9. Whenever a village-policeman or road-policeman arrests any person, he shall take him as soon as possible to the police-station within the jurisdiction of which his village or beat is situate. Procedure on arrest by village or road-policeman.

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or withdrawing from the duties of his office without permission, and without having given at least two months' notice of his intention to withdraw from such duties to the persons authorized to nominate or appoint under sections three and seven (as the case may be),

or offering any unnecessary personal violence to any person in his custody,

or violating any of the rules framed under section fourteen and for the time being in force,

shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment for a period not exceeding three months, or to both. Penalty.

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(*b.*) for regulating their numbers, location and duties, and

(*c.*) for carrying out generally the purposes of this Act.[a]

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[a] See *North-Western Provinces Gazette*, 21st March, 1874, p. 69.

THE NORTH-WESTERN PROVINCES RENT ACT, 1873.

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ACT No. XVIII OF 1873.

Received the Governor General's assent on the 22nd of December 1873.[1]

An Act to consolidate and amend the Law relating to the recovery of Rent in the North-Western Provinces.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the recovery of Rent in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The North-Western Provinces Rent Act, 1873:"

Local extent. It extends in the first instance to the territories for the time being under the government of the Lieutenant-Governor of the North-Western Provinces, except those specified in the second schedule hereto annexed. But the Local

Government may, by notification in the official Gazette, extend the whole or any part of this Act to all or any of the territories so excepted.

Save as provided by sections one hundred and seventy-one and one hundred and seventy-two, nothing herein contained applies to land for the time being occupied by dwelling-houses or manufactories, or appurtenant thereto.

This Act shall come into force on the passing thereof. Commencement.

2. Act No. X of 1859 *(to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal)*, Act No. XIV of 1863 *(to amend Act X of 1859)*, and Act No. XXII of 1872 *(to explain and amend Act No. X of 1859)* are hereby repealed. But such repeal shall not legalize any practice which, immediately before the passing of this Act, was unlawful. Acts repealed.

And all rules and orders now in force and made under any of the Acts hereby repealed shall, so far as they are consistent herewith, be deemed to have been made hereunder. Rules and orders now in force.

All proceedings commenced under any enactment hereby repealed shall be deemed to have been commenced under this Act, except where a decree has been made or an appeal presented: Provided that no proceeding relative to the enhancement of rent shall be deemed to have been commenced before the passing of this Act, merely because the landholder has served a notice under section thirteen of Act No. X of 1859, or because the tenant has contested his liability to pay the enhanced rent, by complaint of excessive demand of rent, under sections fourteen and twenty-three of the same Act. Proceedings heretofore commenced.

Illustration *(a)* to the Indian Penal Code, section nineteen, and Act No. XI of 1865,[a] section fifty-two, shall be read as if, for "Act X of 1859," the words and figures, "the North-Western Provinces Rent Act, 1873," were substituted. And section fifteen of Act No. XVIII of 1871[b] *(for the levy of rates on land in the North-Western Provinces)* shall be read as if, for "section twenty-three of Act No. X of 1859, and in section one of Act No. XIV of 1863," the words and figures "section ninety-four of the North-Western Provinces Rent Act, 1873," were substituted, and as if, for "Act No. X of 1859 and Act No. XIV of 1863," the words and figures, "the North-Western Provinces Rent Act, 1873," were substituted. Acts amended.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

(1.) 'Mahál' means— 'Mahál.'

(*a*) any local area held under a separate engagement for the payment of land-revenue, and for which a separate record-of-rights has been framed;

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[a] See General Acts, vol. II, p. 800.
[b] See *supra*, p. 199.

(*b*) any local area of which the revenue has been assigned or redeemed, and for which a separate record-of-rights has been framed:

'Rent.' (2) 'Rent' means whatever is to be paid, delivered or rendered by a tenant on account of his holding, use or occupation of land:

'Landholder.' (3.) 'Landholder' means the person to whom a tenant is liable to pay rent:

'Sír-land.' (4.) 'Sír-land' means—

(*a*) land recorded as sír at the last settlement of the district in which it is situate, and continuously so recorded since;

(*b*) land continuously cultivated for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour;

(*c*) land recognized by village-custom as the special holding of a co-sharer, and treated as such in the distribution of profits or charges among the co-sharers:

'Collector of a district.' (5.) 'Collector of a district' means the chief officer in charge of the revenue-administration of a district:

'Commissioner of a Division.' (6.) 'Commissioner of a Division' means the chief officer in charge of the revenue-administration of a Division:

'Board.' (7.) 'Board' means the Board of Revenue for the North-Western Provinces:

'Civil jail.' (8.) 'Civil jail' means the civil jail of the District, and includes any place appointed by the Local Government for the confinement of prisoners under sentence of any Court constituted under this Act.

CHAPTER II.

Rights and Liabilities of Landholders and Tenants.

Persons holding land at fixed rent without change since permanent settlement to continue to hold at such rent.

4. In the permanently-settled districts, persons who possess a permanent transferable interest in land, and who are intermediate between the proprietor of a mahál and the occupants, and who hold (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the Permanent Settlement, shall continue to hold at such rent.

Tenants at fixed rates

5. All tenants in districts or portions of districts permanently settled, who hold lands at fixed rates of rent which have not been changed since the Permanent Settlement, shall have a right of occupancy at those rates, and shall be called "tenants at fixed rates."

Presumption where rent of land not changed for 20 years.

6. Whenever, in any suit to which the provisions of section four or section five apply, it is proved that the rent at which land is held has not been changed for a period of twenty years next before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the Permanent Settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

7. Every person who may hereafter lose or part with his proprietary rights in any mahál shall have a right of occupancy in the land held by him as sír in such mahál at the date of such loss or parting, at a rent which shall be four annas in the rupee less than the prevailing rate payable by tenants-at-will for land of similar quality and with similar advantages. Expropietary tenants.

Persons having such rights of occupancy shall be called "expropietary tenants," and shall have all the rights of occupancy-tenants.

8. Every tenant who has actually occupied or cultivated land continuously for twelve years has a right of occupancy in the land so occupied or cultivated by him. Occupancy-tenants.

Such tenants shall be called "occupancy-tenants."

The occupation or cultivating of the father or other person from whom the tenant inherits, shall be deemed to be the occupation or cultivating of the tenant within the meaning of this section:

Provided that no tenant shall acquire, under this section, a right of occupancy— Tenants barred from right of occupancy.

(*a*.) in land which he holds from an occupancy-tenant, or from an expropietary tenant, or from a tenant at fixed rates;

(*b*) in sír-land;

(*c*.) in land held by him in lieu of wages.

Provided also that, when a tenant actually occupies or cultivates land under a written lease without having a right of occupancy in such land, the period of twelve years necessary for acquiring a right of occupancy therein by him or any one claiming under him shall begin on the expiration of the term of such lease. If during the currency of such lease he ceases to occupy the land comprised therein, and sublets it to another, no right of occupancy in such land shall be acquired by the sub-lessee during the currency of the lease. Time excluded from reckoning period necessary for acquiring right of occupancy.

9. The right of tenants at fixed rates shall be heritable and transferable. Rights under sections 7 and 8 when transferable.

No other right of occupancy shall be transferable by grant, will or otherwise, except as between persons who have become by inheritance co-sharers in such right.

When any person entitled to such last-mentioned right dies, the right shall devolve as if it were land: Provided that no collateral relative of the deceased who did not then share in the cultivation of his holding shall be entitled to inherit under this section.

10. On the application of any tenant to have his class of tenure determined, the Collector of the district or Assistant Collector shall determine the class to which he belongs, namely— Determination of class of tenure of tenant.

whether he is a tenant at fixed rates,

or an expropietary tenant,

or an occupancy-tenant,

or whether he is a tenant without a right of occupancy.

Bar to enhancement

11. The rent paid by tenants at fixed rates shall not be liable to enhancement.

Enhancement in case of exproprietary and occupancy-tenants.

12. The rent paid by exproprietary or occupancy-tenants shall not be liable to enhancement except—

(*a*) by a written agreement registered under the Indian Registration Act, 1877, or recorded before the patwárí of the village or the kánúngo : or

(*b*) by order of a Settlement-officer passed under the law for the time being in force : or

(*c*) by order under this Act.

Grounds of enhancing rent of occupancy-tenants which has not been fixed by order

13. Where the rent of any occupancy-tenant has not been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by any such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the landholder may apply to enhance the rent of such tenant on one of the following grounds and on no others :—

(*a*) that the rate of the rent paid by such tenant is below the prevailing rate payable by the same class of tenants for land of similar quality with similar advantages ;

(*b*) that the value of the produce has, or the productive powers of the land have, been increased otherwise than by the agency or at the expense of the tenant ;

(*c*) that the quantity of land held by the tenant has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.[a]

Enhancement of rent of exproprietary tenants which has not been fixed by order.

14. *a.* Where the rent of any exproprietary tenant has not been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the landholder may apply to enhance or determine the rent of such tenant as if he were an occupancy-tenant : Provided that his rent shall be four annas in the rupee below the prevailing rate for land of a similar quality with similar advantages held by tenants-at-will.

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[a] Rules for enhancement under sections 13, 14 and 20, *North-Western Provinces Gazette*, 7th November, 1874, p 1862.

b. Whenever the district or tahsíl, or other local area in which such land is situated, has been divided by the Settlement-officer into circles of like capacity and soil, the land of similar quality, with similar advantages, shall, for the purposes of this section and section thirteen, be selected from the same circle. Selection of land for comparison

c. When the Settlement-officer has not so divided the district or other local area as aforesaid, the land regarding which the application has been made shall be compared with land of similar quality and with similar advantages, in the same tahsíl or in a tahsíl immediately adjacent.

15. Where the rent of any exproprietary tenant or occupancy-tenant has not been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act, Abatement in like cases

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the tenant may apply for an abatement of his rent on one of the following grounds, and on no others :—

(*a*) that the area of the land held by him has been diminished by diluvion or otherwise :

(*b*) that the value of the produce has, or the productive powers of such land have, been decreased by any cause beyond his power.

16. Subject to the provisions of section seventeen, where the rent of any exproprietary or occupancy-tenant has been fixed by an order under this Act, such rent shall not be liable to be enhanced or abated Time of enhancement or abatement where rent of exproprietary or occupancy-tenant has been fixed by order under Act.

(*a*) until the expiration of ten years from the date on which such order took effect, or

(*b*) until the revision (before confirmation) of the assessment of the district by order of the Local Government, or

(*c*) until the conclusion of the period of settlement of the district,

whichever of the said three events first occurs.

17. Where the rent of any exproprietary or occupancy-tenant has been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act, the landholder may apply to enhance the rent of such tenant during the currency of the term for which the rent has been so fixed, on one of the following grounds, and on no others :— Grounds of enhancement and abatement where rent fixed by order of Settlement-officer or under Act.

(*a*) that the area of the tenant's holding has been increased by alluvion or otherwise ;

(*b*) that the productive powers of the land held by the tenant have, since the date of the order, been increased otherwise than by the agency or at the expense of the tenant :

And the tenant may apply for abatement of his rent on one of the following grounds, and on no others:—

(*c*) that the area of the land held by him has been diminished by diluvion or otherwise;

(*d*) that the productive powers of such land have been decreased by any cause beyond his control.

Grounds of enhancement or abatement of rent of tenant at fixed rates.

18. In the case of a tenant at fixed rates, the landholder may apply to enhance his rent on the ground that the area of the land in his holding has been increased by alluvion or otherwise,

and the tenant may apply for abatement of his rent on the ground that the area of the land in his holding has been diminished by diluvion or otherwise.

Day before which applications for enhancement or abatement must be made.

19. Applications for enhancement or abatement of rent must be made on or before the thirty-first day of December next before the year commencing on the first day of July from which the rent is to be enhanced or abated,

Orders when to take effect.

and all orders for enhancement or abatement shall take effect from the first day of July next following the date of the application.

Consideration of caste and class of tenant in determining rate of his rent.

20. In determining, under this chapter, the rate of rent payable by any tenant, his caste shall not be taken into consideration, unless it is proved that, by local custom, caste is taken into account in determining such rate;

and whenever it is found that, by local custom or practice, any class of persons, by reason of their having formerly been proprietors of the soil or otherwise, hold land at favourable rates of rent, the rate shall be determined in accordance with such custom or practice.

Tenants-at-will

21. No tenant-at-will of land shall be liable to pay rent in excess of the rent (if any) payable by him in the previous year ending on the thirtieth day of June, unless the landholder and tenant have agreed as to the rent to be paid to the former by the latter, and such agreement has been recorded by the patwárí of the village or the kánúngo of the pargana in which such land is situate.

Rent of exproprietary or occupancy-tenant fixed by agreement

22. Notwithstanding anything hereinbefore contained, when the rent of any exproprietary or occupancy-tenant has been fixed by agreement between the parties, such rent shall not be liable to enhancement or abatement for such term as may be agreed on.

Power to remit or suspend payment of rent where crops have been damaged.

23. Whenever in any land the crops have been damaged or destroyed by any cause beyond the tenant's control, any officer empowered by the Local Government in this behalf may, subject to such rules as to appeal, confirmation or otherwise, as may from time to time be prescribed by the Board, order that the whole or any part of the rent then payable for such land shall be remitted, or that the payment thereof shall be suspended for such period as he thinks fit;

And, subject to the same rules, the landholder shall be bound by such order:

And in case of such remission, the Local Government shall remit the revenue due in respect of such land to an amount which shall, at the option of the Local Government, be equal to one-half of the rent remitted, or shall bear the same proportion to the whole of the revenue due in respect of the mahál, as the rent remitted bears to the whole of the rent payable in respect of such mahál;

And in case of such suspension, the Local Government shall suspend for the period of such suspension so much of the revenue payable in respect of the mahál as, at the option of the Local Government, is equal to one-half of the rent of which the payment has been suspended, or bears the same proportion to the whole revenue payable in respect of the mahál, as the rent of which the payment has been suspended bears to the whole rent payable in respect of such mahál.[a]

(*A*)—*Leases.*

Contents of lease to which every tenant is entitled.

24. Every tenant is entitled to receive from the landholder, and may at any time during the continuance of his holding apply for, a lease containing the following particulars:—

(*a*) the quantity of land held by him, and, where the fields have been numbered in a Government survey, the number of each field:

(*b*) the amount of annual rent payable for such land:

(*c*) the instalments in which, and the dates on which, such rent is to be paid:

(*d*) any special conditions of the lease:

(*e*) if the rent is payable in kind, or is calculated on a valuation of the produce, the proportion of produce to be delivered, the mode of valuation, and the time, manner and place of delivery.

Leases to which tenants at fixed rates are entitled.

25. Tenants at fixed rates are entitled to receive leases at such rates.

Leases to which exproprietary and occupancy-tenants are entitled.

26. Exproprietary and occupancy-tenants are entitled to receive leases at the rates hitherto paid by them, or determined in accordance with the provisions of this Act.

Leases to which other tenants are entitled.

27. All other tenants are entitled to leases only on such terms as may be agreed upon between them and the landholders.

Landholder granting lease entitled to reciprocal engagement.

28. Every landholder who grants a lease is entitled to receive a reciprocal engagement from the tenant, executed by the tenant, and conformable with the terms of the lease.

The tender to any tenant of a lease, such as he is entitled to receive, shall entitle the landholder to receive a reciprocal engagement from such tenant.

[a] For Rules as to suspension and remission of rent and proposed suspension and remission of revenue, see *North-Western Provinces Gazette*, 1st July, 1876, pp. 785—787.

Lease for period exceeding term of landholder's engagement.

29. If any lease be granted, or if any agreement be entered into, by any landholder under engagement with Government for his land, fixing the rent of land for any period exceeding the term of such engagement, such lease or agreement shall, on the expiration of the term aforesaid, be void at the option of either party.

Resumption of rent free grants.

30. *a.* And whereas all grants (whether in writing or otherwise) for holding land exempt from the payment of rent which have been made since the first day of December 1790, by any authority other than that of the Governor General in Council, were declared by Bengal Regulation XIX of 1793, section ten, to be null and void, and like provisions have been by divers Regulations applied to the several parts of the territories to which this Act extends, and the said Regulation XIX of 1793 also provided that no length of possession should be considered to give validity to any such grant, either with regard to the property in the soil or the rents of it, it is hereby enacted as follows :—

Applications to resume

b. Applications by the proprietor to resume such grants or to assess rent on the land,[a] shall be made to the Collector of the district or Assistant Collector, and, subject to rules to be made under section two hundred and eleven, shall be dealt with as other applications under this Act.

Validity of grants which grantor has expressly agreed not to resume.

c. Grants of land held under a written instrument, by which the grantor expressly agrees that the grant shall not be resumed, shall be held valid as against him (but not as against his representatives after his death) during the continuance of the settlement of the district in which the land is situate, which is current at the date of the grant.

When rent-free tenure confers proprietary right.

d. Where any land has been for fifty years or upwards, and still is, held rent-free and by at least two successors to the original grantee, such holding shall be deemed to confer on the holder a proprietary right.

e. Nothing in the Indian Limitation Act, 1871, shall bar the right to make an application under this Act to assess to rent land held rent-free.

f. Nothing in this section shall apply to either of the following cases :—

(1) Where land is previously to the passing of this Act held rent-free under a judicial decision :

(2) Where, previously to the passing of this Act, land held rent-free has been purchased for a valuable consideration and resumption thereof has been barred under Act No. X of 1859, section twenty-eight, or under the Indian Limitation Act, 1871, schedule II, No. 130.

(B)—Relinquishment and Ejectment.

Relinquishment of land by tenant not

31. Every tenant not holding under a lease shall continue liable for the rent of the land in his holding for the ensuing year, unless on or before the

[a] Rules for guidance of officers assessing rent under this section, *North Western Provinces Gazette*, 14th August, 1875, p 1104.

first day of May in any year he gives notice in writing to the landholder, or his recognized agent, of his desire to relinquish such land on the thirtieth day of June next ensuing, and relinquishes it accordingly; or unless it is let to any other person by such landholder or agent.[a]

holding under a lease.

32. If the landholder or his agent refuse to receive such notice, or if he receive it but refuse to sign a receipt for the same, the tenant may make an application to the tahsíldár, who shall thereupon cause the notice to be served on such landholder or agent, the tenant paying the costs of service.[b]

Service through tahsíldár of notice of relinquishment.

33. The notice shall, if practicable, be served personally on the landholder or his agent; but if the landholder or his agent cannot be found, or if he evades service of the notice, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the *chaupál*, or other conspicuous place in the village where the land is situate.

Mode of serving notice.

Where the delay in serving the notice is owing to the fault of the landholder or his agent, the notice shall be deemed to have been served at the first attempt to serve it.

34. *a.* When an arrear of rent remains due from any tenant, he shall be liable to pay interest on such arrear at one per cent. per mensem; and if the arrear remains due on the thirtieth day of June, to be ejected from the land in respect of which the arrear is due.

Liability of tenant to pay interest on arrear and to be ejected.

b. No tenant at fixed rates, exproprietary tenant, occupancy-tenant, or tenant holding under an unexpired lease, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Bar to ejectment without decree.

c. No ejectment of a tenant or forfeiture of a lease shall be decreed on account of any act or omission of the tenant

Ejectment not to be decreed for certain acts or omissions.

(1) which is not detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let, or

(2) which by law, custom, or special agreement does not involve the forfeiture of the lease.

35. If the landholder desire to eject a tenant at fixed rates, an exproprietary tenant, an occupancy-tenant, or a tenant holding under an unexpired lease, against whom a decree for arrears has been passed and remains unsatisfied, he may, after the expiration of the year, ending on the thirtieth day of June, in which such arrears accrued, apply to the Collector of the district or Assistant Collector to eject the tenant.

Ejectment of tenant at fixed rates, exproprietary, with right of occupancy, or holding under unexpired lease.

Such officer shall, on receiving such application, (subject to the provisions

[a] As to relinquishment of land by tenant not holding under a lease, see *North-Western Provinces Gazette*, 27th March, 1875, p. 435.

[b] As to service of notice through tahsíldár, *ibid.* Rules and forms under sections 31—43, *ibid.*

of the Indian Limitation Act, 1871, and of section one hundred and sixty-two of this Act) cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that if he does not pay such amount into Court within fifteen days from receipt of the notice, he will be ejected from his land.

If such amount be not so paid, the Collector of the district or Assistant Collector may eject the tenant.[a]

Service of notice on tenant for limited period.

36. If the landholder desire to eject a tenant not having a right of occupancy, or any other tenant holding only for a limited period, after the determination of his tenancy, he may cause a written notice of ejectment to be served on such tenant under the provisions of this Act.[b]

Language and contents of notice.

37. The notice of ejectment shall be written in the vernacular language and character of the district:

it shall specify the land from which the tenant is to be ejected;

and it shall inform him that he must vacate such land on or before the first day of May next following; or that, if he means to contest the right to eject him, he must apply to the Collector of the district or Assistant Collector for that purpose on or before that date.[c]

Mode of serving notice.

38. The notice shall be issued and served through the office of the tahsíldár on or before the first day of April, and the landholder shall pay the cost of service: it shall be served personally on the tenant, if practicable; but if he cannot be found, service may be made by affixing the notice to his usual place of residence.[d]

Effect of failure of tenant to institute suit to contest liability to ejectment.

39. *a.* The tenant, on whom such notice has been served, may, on or before the first day of May next after the service, make an application to the Collector of the district or Assistant Collector, contesting his liability to be ejected.

b. When such an application is made, the Collector of the district or Assistant Collector shall proceed to determine the question between the parties.

c. If no such application is made, the tenancy of the land in respect of which the notice has been served shall be held to cease on the first day of May next after the service; unless, after such service, the landholder authorises the tenant to continue in the occupation of the land.

Procedure to enforce ejectment.

40. If the landholder require assistance to eject the person whose tenancy is alleged to have ceased under the provisions of section thirty-nine, he may apply to the Collector of the district or Assistant Collector for such assistance before the ploughing for the *kharíf* harvest commences in the district; and the

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a, b, c d For Rules and forms under these sections, see *North-Western Provinces Gazette*, 27th March, 1875, pp. 135, 436

Collector of the district or Assistant Collector shall order the ejectment of such tenant if he is satisfied—

(*a*) that the notice was duly served on such tenant under section thirty-eight;

(*b*) that he has not been authorised by the landholder to continue in occupation;

(*c*) that the tenant has not made the application mentioned in section thirty-nine; or

(*d*) that if such application has been made, the question has been determined adversely to the tenant.

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received if the lease be of the kind in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the repayment of such advance either in money or by the usufruct of the land. In all such cases the landholder must proceed by suit in the civil Court.

Notice of ejectment when void.

41. If the landholder expressly authorise the tenant, on whom the notice of ejectment has been served, or against whom any proceedings in ejectment under section forty have been taken, to remain in occupation of the land, and to prepare it for the *kharíf* harvest, the proceedings shall become void.

Rights of ejected tenant.

42. *a.* Any tenant ejected in accordance with the provisions of this Act, shall be entitled to any growing crops or other ungathered products of the earth belonging to the tenant, and growing on the land at the time of his ejectment, and to use the land for the purpose of tending and gathering in such crops or other products, paying adequate rent therefor.

Effect of tender by landholder of payment for crops.

b. Provided that, if the landholder desire to purchase such crops or other products, he may tender their price to the tenant; and thereupon the right of the tenant to such crops and other products, and to use the land for the purpose aforesaid, shall cease.

Power to determine rent and price.

c. In the case of a dispute under this section, the Collector of the district or Assistant Collector may, on the application of the landholder or tenant, award the rent and price so payable; and the amount of such award, or of any tender accepted under this section, shall be recoverable as an arrear of rent by suit under this Act.

Set-off of rent.

d. The rent, if any, payable to the landholder by the tenant at the time of his ejectment may be set-off against the price of the said crops or other products.

Application for officer to divide produce or appraise crop.

43. *a.* Wherever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a like nature, requiring the presence both of the cultivator and landholder, either personally or by agent,

if either landholder or tenant, personally or by agent, neglect to attend at the proper time, or if there is a dispute as to the amount or value of the crop,

an application may be presented by either party to the Collector of the district or Assistant Collector, requesting that a proper officer be deputed to make the division, estimate or appraisement.

Procedure on such application.

b. On receiving such application, the Collector of the district or Assistant Collector shall issue a written notice to the opposite party or his agent, to attend on the date and at the time specified in the notice, and shall depute an officer before whom such division, estimate or appraisement shall be made.

c. If on or before the date appointed, the dispute has not been amicably adjusted, three residents of the village or neighbourhood shall be appointed assessors ; one by each of the parties, and one by the officer deputed to divide the grain or estimate or appraise the crops, and the officer deputed shall decide the amount of rent payable by their award, and shall give to the party applying a written authority to divide the grain or cut the crops.

d. Provided that, if either party fail to attend, the officer deputed shall nominate an assessor on his behalf.

e. The officer deputed shall report his proceedings to the Collector of the district or Assistant Collector, who shall determine the amount of costs properly incurred under this section, and the share of the costs to be paid by either party.[a]

(C.)—Compensation for Improvements made by Tenants.

Tenants' right to compensation for improvements.

44. If any tenant, or any person from whom he has inherited or purchased, make any such improvements on the land in his possession as are hereinafter mentioned, neither he nor his representative shall be ejected from the same land without payment of compensation for such improvements.

Explanation.—The word "improvements" as used in this section means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and comprises—

(*a*) tanks, wells and other works for the storage, supply or distribution of water for agricultural purposes,

(*b*) works for the drainage of land, or for the protection of land from floods, or from erosion or other damage by water,

(*c*) the reclaiming, clearing, or enclosing of lands for agricultural purposes,

(*d*) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto.

Mode of making compensation.

45. Such compensation may, at the option of the landholder or his representative, be made—

1*st*, by payment in money ;

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[a] For Rules and forms under this section, see *North-Western Provinces Gazette*, 27th March, 1875, pp. 436, 437.

2nd, by a rent to be charged on the land ;

3rd, by the grant of a beneficial lease of the land, by the landholder or his representative, to the tenant or his representative ;

4th, partly by one or by any two of the said ways, and partly by the others or other of the same ways.

Settlement of difference as to amount or value of compensation.

46. In case of difference as to the amount or value of the compensation tendered, either party may apply to the Collector of the district or Assistant Collector stating the matter in dispute, and requesting a determination thereof.

On receiving such application, the Collector of the district or Assistant Collector shall

(*a*) cause notice thereof to be served on the other party,

(*b*) take such evidence as the parties or either of them may adduce,

(*c*) make such further inquiry as the Collector of the district or Assistant Collector may deem necessary, and

(*d*) determine the amount of the payment in money, and the amount and incidence of the rent-charge, and the terms of the lease, or any of such matters.

Considerations in determining compensation.

47. In determining the amount or value mentioned in section forty-six, or the terms of such lease, the Collector of the district or Assistant Collector shall take into account any assistance given to the tenant by the landholder either directly in money, material or labour, for the purpose of making such improvements, or indirectly by allowing the tenant to hold at a favourable rate of rent.

(D.)—Compensation for wrongful Acts and Omissions.

Right of tenant to compensation for exactions in excess of rent or for withholding receipt.

48. Every tenant from whom any sum is exacted in excess of the rent specified in his lease or payable under the provisions of this Act,

and every tenant from whom a receipt is withheld for any sum of money paid by him as rent,

shall be entitled to recover from the landholder compensation not exceeding double the amount so exacted or paid.

Contents of receipt.

Receipts for rent shall specify the period or crop on account of which the rent is acknowledged to have been paid ;

and any refusal to make such specification shall be held to be a withholding of a receipt.

Damages for extorting payment of rent by duress.

49. If payment of rent, whether the same be legally due or not, is extorted from any tenant by illegal confinement or other duress, he shall be entitled to recover from the person guilty of such extortion such further compensation, not exceeding the sum of two hundred rupees, as the Collector of the district or Assistant Collector thinks reasonable.

Liability to punishment for extortion not affected.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person guilty of such extortion may be subject under the Indian Penal Code.

(E.)—Deposit of Rent in Court.

Deposit of amount tendered by tenant and refused.

50. If any tenant tenders to the landholder full payment of the rent due from him, and if the amount so tendered be not accepted, and a receipt for the amount forthwith granted, the tenant may thereupon apply to the Collector of the district or Assistant Collector for leave to deposit such amount in his Court to the credit of the landholder.[a]

Form and verification of application.

51. The application to the Collector of the district or Assistant Collector shall be as nearly as may be in the form (A) in the first schedule hereto annexed, and shall be verified in the manner prescribed for the verification of plaints under section one hundred and seven :

Penalty for false statement.

and the person making the verification shall be punishable, if the application contain any averment which he knows or believes to be false, or does not know or believe to be true.

Notice to issue on deposit being made.

52. The Collector of the district or Assistant Collector shall receive the amount which the tenant desires to deposit, and shall thereupon issue to the person to whose credit it has so been deposited, a notice in English or the vernacular language of the district in the form (B) in the first schedule hereto annexed, or to the like effect.

And such deposit shall, in all questions between the landholder and the tenant, be deemed to be a payment made by the tenant to the landholder on account of the rent.

Mode of serving notice.

53. Such notice shall be served through the tahsíldár upon the person to whom it is addressed, or upon his recognized agent.

In their absence, the notice shall be affixed at the *chaupál*, or other conspicuous place in the village in which the land for which the rent is due is situate.

Payment to person served with notice on his application.

54. If at any time before the expiration of three years from the date of the deposit the person on whom such notice is served, or his recognized agent, appears, and applies that the money in deposit be paid to him, it shall be paid accordingly, unless it has been repaid or paid in accordance with the provisions next hereinafter contained.

Refund to depositor.

55. If no application be made by such person or his recognized agent, the sum shall be repaid to the depositor on the expiration of three years from the date of the deposit.

And at any time before the expiration of such period, on the joint application of the depositor and the person to whose credit the said sum was deposited, such sum shall be paid in such manner as the joint applicants desire.[b]

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a, b Rules regarding deposit of rent under sections 50—55, *North-Western Provinces Gazette*, 7th November, 1874, p. 1867. See extant circulars of the Board of Revenue, North-Western Provinces, Part I, p. 13 II

CHAPTER III.

Distress.

Produce of land hypothecated for rent.

56. The produce of all land in the occupation of a cultivator shall be deemed to be hypothecated for the rent payable in respect of such land;

Recovery of arrears by distress.

and when an arrear of rent is due from any cultivator, the person entitled to receive rent immediately from him may, instead of suing for the arrear as hereinafter provided, recover the same by distress and sale of the produce of the land in respect of which the arrear is due, under the rules contained in this chapter.

57. Provided—

Distress of produce barred by security given for rent.

(*a.*) that when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be liable to be distrained:

Sharer when entitled to distrain.

(*b.*) that no sharer in any mahál shall have power to distrain upon any cultivator unless he is entitled to collect the whole rent from such cultivator:

Distress by manager.

(*c.*) that no sharer in a joint undivided mahál shall exercise such power otherwise than through a manager authorized to collect the rents of the whole mahál on behalf of all the sharers therein:

Distress in pattídárí mahál.

(*d.*) that in pattídárí mahals distress shall be made only through a lambardár, or, where the rent of a pattí is not collected by a lambardár, through the pattídár who is entitled to collect the rent.

No distress for over-due arrear, nor, without agreement, for excess over past year's rent.

58. A distress shall not be made for any arrear which has been due in respect of any land for a longer period than one year:

nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless the rent has been enhanced under the provisions hereinbefore contained, or by order of a Settlement-officer, or unless the cultivator has agreed to pay such excess and such agreement has been attested before the patwárí or kánúngo.

Distress by managers under Court of Wards, &c.

59. The power to distrain conferred by sections fifty-six and fifty-seven may be exercised by managers under the Court of Wards, and other persons lawfully entrusted with the charge of immoveable property;

and also by the agents employed by such persons as aforesaid, in the collection of rent, if expressly authorized by power-of-attorney in that behalf:

Liability for illegal act.

If any wrongful act is committed by any such agent, under colour of the exercise of the said power, such agent and his principal shall be jointly and severally liable to make compensation for such act.

Written authority to servants employed to distrain

60. When any person, empowered to distrain property under section fifty-six, section fifty-seven or section fifty-nine, employs a servant or other person to make the distress, he shall give him a written authority for the same, and the distress shall be made in the name of the person giving such authority.

Standing crops and crops gathered liable to distress.

61. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with power to distrain under the provisions of this Act.

Exception

But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to be distrained under this Act.

Defaulter to be served with written demand and account.

62. Before or at the time when a distress is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

Mode of service.

The demand and account shall, if practicable, be served personally on the defaulter; or, if he abscond or conceal himself, so that they cannot be so served, shall be affixed at his usual place of residence.

Distress to be proportionate to arrear.

63. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid equal in value, as nearly as may be, to the amount of the arrear and the costs of the distress; and

List of property to be prepared and copy served on owner.

shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or, if he be absent, affix it at his usual place of residence.

Standing crops, &c., when distrained, may be reaped and stored.

64. *a.* Standing crops and other ungathered products may, notwithstanding the distress, be reaped and gathered by the cultivator, and he may store the same in such granaries or other places as are commonly used by him for the purpose.

b. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

c. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

Sale of products which cannot be stored.

d. Crops or products which, from their nature, do not admit of being stored, may be sold before they are reaped or gathered, under the rules hereinafter provided; but in such case, the distress shall be made at least twenty days before the time when the crops or products, or any part of the same, are fit for reaping or gathering.

Assistance to distrainer opposed or

65. If a distrainer is opposed, or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Collector of the

district or Assistant Collector, who may, if he thinks necessary, depute an officer to assist the distrainer in making the distress.[a] apprehending resistance.

66. If at any time after property has been distrained and before the day fixed for putting it up to sale as hereinafter provided, the owner of the property tenders payment of the arrear demanded of him, and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress. Distress to be withdrawn on tender of arrear and expenses before sale.

67. Within five days from the time of the storing of any distrained crops or products, Application for sale.

or, if the crops or products do not from their nature admit of being stored, within five days from the time of making the distress,

the distrainer shall apply for sale of the same to the officer for the time being authorized by the Local Government to sell distrained property within the tahsíl in which they are situate.[b]

68. The application shall be in writing, and shall contain— Contents of application.

(*a*) an inventory or description of the property distrained,

(*b*) the name of the defaulter and his place of residence,

(*c*) the amount due, and the date of the distress, and

(*d*) the place in which the distrained property is.

Together with the application, the distrainer shall deliver to the said officer the fee for the service of a notice upon the defaulter as hereinafter provided.[c] Fee for service of notice.

69. Immediately on receipt of the application, the said officer shall send a copy of it to the Collector of the district or Assistant Collector; Procedure on receipt of application.

and shall serve a notice in the form (C) contained in the first schedule hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector of the district, or Assistant Collector, within the period of fifteen days from the receipt of the notice.

He shall at the same time send to the Collector of the district or Assistant Collector, for the purpose of being put up in his office and in the office of the tahsíldár, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain—

(*a*) a description of the property,

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a, b, c For Rules as to distress under these sections, see *North-Western Provinces Gazette*, 7th November, 1874, pp. 1868, 1869: also extant circulars of Board of Revenue, North-Western Provinces, Part I, p. 23 II.

and shall specify—

(*b*) the demand for which it is to be sold, and

(*c*) the place where the sale is to be held.[a]

Suspension of sale on receipt of Collector's certificate of institution of suit.

70. If a suit is instituted before the Collector of the district or Assistant Collector in pursuance of the aforesaid notice, the Collector of the district or Assistant Collector shall send to the officer referred to in section sixty-seven, or, if so requested, shall deliver to the owner of the distrained property, a certificate of the institution of such suit;

and on such certificate being received by, or presented to, the said officer, he shall suspend the sale.[b]

Suit to contest distrainer's demand before issue of notice of sale.

71. A person whose property has been distrained in manner hereinbefore provided, may immediately after the distress, and before the issue of notice of sale, institute a suit to contest the demand of the distrainer.

When such suit is instituted, the Collector of the district or Assistant Collector shall proceed in the manner prescribed in the last preceding section.

If, thereafter, application for the sale of the property is made to the said officer, he shall send a copy of the application to the Collector of the district or Assistant Collector, and suspend further proceedings, pending the decision of the case.

Distress when to be withdrawn.

72. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with a surety, binding himself to pay whatever sum may be adjudged to be due from him, with interest and costs of suit;

and when such bond is executed, the Collector of the district or Assistant Collector shall give to the owner of the property a certificate to that effect, and, if so requested, shall serve the distrainer with notice of the same;

and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Collector of the district or Assistant Collector, the property shall be released from distress.[c]

When sale may be proceeded with.

73. If the institution of a suit to contest the demand of the distrainer has not been certified, in manner hereinbefore provided, to the said officer, on or before the day fixed in the proclamation of sale, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, in manner hereinafter mentioned, to sell the property or such part of it as may be necessary to satisfy the demand with the costs of distress and sale.

Place of sale.

74. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort, if the said officer is of opinion that it is likely to sell there to better advantage.

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a, b, c For rules as to distress under these sections, see *North-Western Provinces Gazette*, 7th November, 1874, pp 1868, 1869: also extant circulars of the Board of Revenue, North-Western Provinces, Part I, p 23 II.

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The property shall be sold by public auction, in one or more lots, as the officer holding the sale may think advisable; Manner of sale.

and if the demand, with the costs of distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder. Withdrawal of distress when demand and costs satisfied.

75. If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) be not offered for it, and if the owner of the property, or some person authorized to act on his behalf, apply to have the sale postponed until the next day, or, if a market be held at the place of sale, the next market-day, the sale shall be postponed until such day and shall be then completed whatever price may be offered for the property. If fair price be not offered, sale may be postponed and shall be then completed.

76. The price of every lot shall be paid for in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks necessary; Payment of purchase-money.

and, in default of such payment, the property shall be put up again and sold. Resale on default.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate, describing the property purchased by him and the price paid.[a] Certificate to purchaser.

77. From the proceeds of every sale of distrained property under this Act, the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall send the amount so deducted to the Collector of the district or Assistant Collector. Deduction, from proceeds, of costs of sale.

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress, and of the issue of the notice and proclamation of sale prescribed in section sixty-nine, to such amount as, after examining the statement of expenses furnished by the distrainer, he thinks proper to allow. Payment of distrainer's expenses.

The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; Discharge of arrear with interest.

and the surplus (if any) shall be delivered to the person whose property has been sold. Surplus.

78. Officers holding sales of property under this Act, and all persons employed by or subordinate to such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers. Sale-officers and employees prohibited from purchasing.

79. Officers holding sales under this chapter are required to bring to the notice of the Collector of the district or Assistant Collector any material irregularities committed by distrainers under colour of this Act; Report of irregularities by distrainer.

and if, in any case, on proceeding to hold any such sale, the officer holding it find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Postponement of sale, and report to Collector when owner

[a] For Rules as to distress, see *North-Western Provinces Gazette*, 7th November, 1874, pp. 1868, 1869: also extant circulars of the Board of Revenue, North-Western Provinces, Part I, p. 23 II.

has not received due notice.

Collector of the district or Assistant Collector, who shall thereupon direct the issue of another notice and proclamation of sale under section sixty-nine, or pass such other order as he thinks fit.

Order of Collector.

Levy of charge when sale-officer attends, and no sale takes place.

80. When an officer goes to any place for the purpose of holding a sale under this Act, and no sale takes place, either for the reason stated in section seventy-nine, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to such officer, the charge of one anna in the rupee on account of expenses shall be leviable, and shall be calculated on the estimated value of the distrained property.

Recovery from owner.

If the distrainer's demand be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property, and may be recovered by the sale of such portion thereof as may be necessary.

Recovery from distrainer.

In every other case it shall be paid by the distrainer, and may be recovered by attachment and sale of his property under the warrant of the Collector of the district or Assistant Collector:

Limit to charge.

Provided that in no case shall a larger amount than ten rupees be recoverable under this section.

Order of sale when amount adjudged due.

81. When a suit has been instituted to contest the demand of a distrainer, and the distrained property has not been released on security, if the demand or any portion of it is adjudged to be due, the Collector of the district or Assistant Collector shall issue an order to the officer authorizing the sale of such property;

Second proclamation of sale

and, on the application of the distrainer within five days from the receipt of such order by the officer, such officer shall publish a second proclamation in the manner prescribed in section sixty-nine, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation;

Sale on failure to pay debt and costs.

and, unless the amount adjudged to be due with the costs of distress be paid, shall proceed to sell the property in the manner hereinbefore provided.

In suit to contest his demand, distrainer to prove arrear.

82. *a.* In all suits instituted to contest the distrainer's demand, he shall be required to prove the arrear in the same manner as if he had himself brought a suit for the amount under the provisions hereinafter contained.

Recovery of amount decreed in favour of distrainer.

b. If the demand or any part thereof is found to be due, the Collector of the district or Assistant Collector shall make a decree for the amount in favour of the distrainer, and such amount may be recovered by sale of the property, as provided in the last preceding section, if the distress has not been withdrawn;

and, if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter,

or if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

Compensation in case of vexatious distress.

c. If the distress is adjudged to be vexatious or groundless, the Collector of the district or Assistant Collector, besides directing the release of the distrained property, may award such compensation to the plaintiff as the circumstances of the case require.

Suit by person claiming property distrained for arrears alleged to be due from another.

83. *a.* If any person claim as his own, property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and such other person, to try the right to the property, in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him, may institute a suit to contest the demand.

Release of property on security being given.

b. When any such suit is instituted, the property may be released upon security being given for the value of the same.

Order of Collector when claim dismissed.

c. If the claim is dismissed, the Collector of the district or Assistant Collector shall make an order for the sale of the property, or for the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

Decree for release and compensation when claim upheld.

d. If the claim is upheld, the Collector of the district or Assistant Collector shall decree the release of the distrained property with costs, and such compensation (if any) as the circumstances of the case require:

Saving of prior claim of person entitled to rent of land.

e. Provided that no claim to any produce of land liable to distress under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any civil Court prevail against such prior claim.

Procedure where right to distrain is claimed by person other than distrainer.

84. If, in any case in which property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, the right to distrain for such arrears is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the time of the commencement of the suit shall be enquired into, and in deciding the suit the result of such inquiry shall be taken into consideration:

Saving of right to sue in civil Court.

Provided that the decision of the Collector of the district or Assistant Collector shall not affect the right of any person who may have a legal title to the rent of the land, to establish his title by suit in the civil Court if instituted within one year from the date of the decision.

Persons pro-

85. If any person whose property has been distrained for the recovery of

vented from suing in time to save property from sale, may sue for damages

a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing a suit to contest the demand or to try the right to the property, as the case may be, within the period allowed by section ninety-four, and his property is in consequence brought to sale, he may, nevertheless, institute a suit under this Act to recover compensation for the illegal distress and sale of his property.

Wrongful acts of distrainer.

86. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged or destroyed by reason of the distrainer not having taken proper precautions for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when it is required to be withdrawn by any provision of this Act,

the owner of the property may institute a suit under this Act to recover compensation for any injury which he has thereby sustained through any act or omission mentioned in the former part of this section.

Suit by owner against person distraining or selling without authority.

87. If any person not empowered to distrain property under section fifty-six, fifty-seven or fifty-nine, nor employed for the purpose under a written authority by a person so empowered, fraudulently distrains or sells, or causes to be sold, any property under colour of this Act, the owner of the property so distrained or sold may institute a suit under this Act to recover compensation from such person for any injury which the plaintiff has sustained from the distress or sale, and the defendant shall be held to have committed criminal trespass, and shall be subject to the penalties provided for that offence by the Indian Penal Code in addition to any damages which may be awarded against him in such suit.

Penalty in addition to damages.

Limitation of suits under sections 85-87.

88. Provided that every suit instituted under any of the three last preceding sections shall be commenced within the period allowed by section ninety-four.

Procedure in case of resistance of distress.

89. *a.* If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Collector of the district or Assistant Collector in charge of the sub-division, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested and brought with all convenient speed before the Collector or Assistant Collector, who shall, if possible, proceed forthwith to try the case.

b. If the case cannot be at once heard, the Collector of the district or Assistant Collector may, if he think fit, require the party arrested to give security for his person, and, in default of such security, may commit him to the civil jail until the case is tried,

and if the offence be proved and the offender be the owner of the property concerned, the Collector of the district or Assistant Collector may order him to be imprisoned in the civil jail for a term not exceeding six months, unless the whole arrear due to the distrainer, with all expenses and costs, is previously to the expiration of such term paid or levied under warrant of the Collector of the district or Assistant Collector by distress and sale of the property of the offender.

c. If the offender be not the owner of the property concerned, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment in the civil jail for a period not exceeding two months.

Proceedings of officers subject to revision and orders of Collector.

90. All proceedings of officers distraining, or assisting distrainers, or holding sales, under this chapter, shall be subject to the revision and orders of the Collector of the district or Assistant Collector in charge of a sub-division of the district.

CHAPTER IV.

Process.

Mode of serving process.

91. *a.* Every process issued by a Collector of a district or Assistant Collector under this Act shall be under his seal and signature, and shall be served or executed by the Názir, or by such other officer as the Collector of the district or the Assistant Collector may direct, at the cost of the party at whose instance it is issued.

Deposit before issue.

b. The amount of such cost, and, in the case of summons to a witness, the sum required for his travelling expenses, shall be deposited in Court before the process is issued:

Power to direct service gratis.

c. Provided that, if in any case the Collector of the district or the Assistant Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Punishment for resisting process.

92. Any resistance or opposition to the lawful process of a Collector of the district or Assistant Collector under this Act, may be punished by him according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.

Power to issue summons and warrant.

When, in any such case, the offender is not present, the Collector of the district or Assistant Collector may summon him to answer to the charge: and if after due service of the summons he fail to attend, may issue a warrant for his apprehension.

CHAPTER V.

Jurisdiction of Courts.

Suits cogniz-

93. Except in the way of appeal as hereinafter provided, no Courts other

able by revenue Courts only.

than Courts of revenue shall take cognizance of any dispute or matter in which any suit of the nature mentioned in this section might be brought, and such suits shall be heard and determined in the said Courts of revenue in the manner provided in this Act, and not otherwise:

(*a*) suits for arrears of rent on account of land or on account of any rights of pasturage, forest-rights, fisheries or the like;

(*b*) suits to eject a tenant for any act or omission detrimental to the land in his occupation or inconsistent with the purpose for which the land was let;

(*c*) suits to cancel a lease for the breach of any condition binding on the tenant, and which, by law, custom or special agreement, involves the forfeiture of the lease;

(*d*) suits for the recovery of any over-payment of rent, or for compensation under section forty-eight or forty-nine;

(*e*) suits for compensation for withholding receipt for rent paid;

(*f*) suits for contesting the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in the exercise of the said power, or for compensation for wrongful acts or omissions of a distrainer;

(*g*) suits by lambardárs for arrears of Government revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues for which the co-sharers may be responsible to the lambardár;

(*h*) suits by co-sharers for their share of the profits of a mahál, or any part thereof, after payment of the Government revenue and village-expenses, or for a settlement of accounts;

(*i*) suits by muáfídárs, or assignees of the Government revenue, for arrears of revenue due to them as such;

(*j*) suits by taluqdárs and other superior proprietors, for arrears of revenue due to them as such.

Limitation of suits under Act.

94. Suits for arrears of rent or revenue, or for a share of the profits of a mahál, or of village-expenses or other dues, shall not be brought after three years from the day on which the arrears or share became due:

Suits relating to distress shall not be brought after three months from the day on which the right to sue accrued:

All other suits must be brought within one year from the day on which the right to sue accrues, unless otherwise specially provided for in this Act.

The day on which the arrears become due or the day on which the right to sue accrues (as the case may be) shall be excluded in computing the periods of limitation prescribed by this section.

Applications cognizable by revenue

95. No Courts other than Courts of revenue shall take cognizance of any dispute or matter on which any application of the nature mentioned in this

section might be made: and such applications shall be heard and determined in the said Courts in manner provided under this Act, and not otherwise:— Courts only.

(*a*) Application to determine the nature and class of a tenant's tenure, under section ten.

(*b*) Application by a landholder, or his agent, to compel a patwárí to produce his accounts relating to land.

(*c*) Application to resume rent-free grants under section thirty, and to assess to rent land previously held rent-free.

(*d*) Application from a landholder to eject a tenant, under section thirty-five or section thirty-six.

(*e*) Applications made by a tenant, under section thirty-nine.

(*f*) Application from a landholder, under section forty, for assistance to eject a tenant.

(*g*) Application from a tenant or landholder to determine the value of any standing crop, or ungathered products of the earth, belonging to the tenant and being on the land at the time of his ejectment, under section forty-two.

(*h*) Application by a landholder to determine rent payable for land used by a tenant for the purpose of tending or gathering in the crop, under section forty-two.

(*i*) Application by a landholder or tenant for assistance in the division or appraisement of a standing crop, under section forty-three.

(*j*) Application by a landholder or tenant to determine compensation for improvements of land.

(*k*) Application by a tenant for leave to deposit rent.

(*l*) Application for enhancement of rent.

(*m*) Application for compensation for wrongful dispossession.

(*n*) Application for the recovery of the occupancy of any land of which a tenant has been wrongfully dispossessed.

(*o*) Application for abatement of rent.

(*p*) Application for leases or counterparts, and for the determination of the rates of rent at which such leases or counterparts are to be delivered.

For the purposes of the Court Fees Act, 1870,[a] applications under clauses (*c*), (*l*), (*m*), (*n*), (*o*) and (*p*) of this section shall be deemed to be plaints in suits.

96. *a*. All applications under section ninety-five shall be made in the district in which the land, crops or products referred to is or are situate, and may, with the consent of the parties, be referred to arbitration under sections two hundred and twenty to two hundred and thirty-one (both inclusive) of the North-Western Provinces Land-Revenue Act, 1873.[b] Points of procedure relating to applications under section 95.

[a] See General Acts, vol. II, p. 1186.

[b] See *infra*, p 314.

b. All orders passed on applications under section ninety-five shall be proved in the same manner, and when proved shall have the same effect, as if they were judgments of the civil Courts.

c. In cases wherein a specific sum of money is adjudged to be due, or any costs or damages are awarded, all such orders may be executed by any process in use for the recovery of an arrear of revenue or rent.

d. In cases wherein possession of immoveable property is adjudged, the officer making the award may deliver over possession in the same manner, and with the same power, in regard to contempts, resistance and the like, as may be lawfully exercised by the civil Courts in execution of their own decrees.

e. Applications under heads (*m*) and (*n*) of section ninety-five shall not be brought after six months from the date of the wrongful dispossession.

Power to invest officers with Assistant Collector's powers, and withdraw them.

97. The Local Government may invest any officer with the powers of an Assistant Collector of the first or second class under this Act, and may at any time withdraw such powers.

Suits and applications cognizable by Assistant Collectors.

98. Assistant Collectors of either class shall have, as such, power to try suits and applications of the following descriptions:—

(*a*) suits for arrears of rent on account of land or on account of any rights of pasturage, forest-rights, fisheries or the like;

(*b*) suits for compensation for withholding receipts for rent paid, under section forty-eight;

(*c*) suits to contest the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in exercise of the said powers, or for compensation for wrongful acts or omissions of a distrainer;

(*d*) suits by lambardárs for arrears of Government-revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues, for which the co-sharers may be responsible to the lambardár;

(*e*) suits by muáfídárs or assignees of the Government-revenue, for arrears of revenue due to them as such;

(*f*) suits by taluqdárs or other superior proprietors, for arrears of revenue due to them as such;

(*g*) applications by a landholder, or by an agent employed by a landholder, to compel the production of accounts by patwáris;

(*h*) applications by a tenant or landholder to determine the value of any standing crops or ungathered products of the earth, and being on the land at the time of his ejectment, under section forty-two;

(*i*) applications by a landholder to determine the amount of rent payable by a tenant using land for the purpose of tending or gathering in crops, under section forty-two ;

(*j*) applications by a landholder or a tenant for assistance in the division or appraisement of standing crops, under section forty-three ;

(*k*) applications by tenants for leave to deposit rent.

Additional suits and applications triable by Assistant Collectors, first class.

99. Assistant Collectors of the first class, in addition to the suits and applications specified in section ninety-eight, shall have power to try suits and applications of the following descriptions :—

(*a*) suits to eject a tenant for any act or omission detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let ;

(*b*) suits to cancel a lease for any breach of any condition binding on the tenant ;

(*c*) suits for the recovery of any over-payment of rent, or for compensation, under section forty-eight or section forty-nine ;

(*d*) suits by co-sharers for their shares of the profits of a mahál or any part thereof, after payment of the Government-revenue and village-expenses, or for a settlement of accounts ;

(*e*) applications by a landholder to eject a tenant, under section thirty-five or section thirty-six ;

(*f*) applications under section thirty-nine by a tenant contesting notice of ejectment ;

(*g*) applications by a landholder under section forty, for assistance to eject a tenant, on whom notice of ejectment has been served ;

(*h*) applications for compensation for wrongful dispossession ;

(*i*) applications by a landholder or tenant to determine the amount to be paid as compensation for improvements ;

(*j*) applications to recover the occupancy of any land from which a tenant has been wrongfully dispossessed by the landholder.

Additional applications triable by Assistant Collector, first class, with special powers.

100. In addition to the powers specified in sections ninety-eight and ninety-nine, an Assistant Collector of the first class specially empowered by Government in this behalf, shall have power to try the following applications :—

(*a*) applications for enhancement of rent ;

(*b*) applications for abatement of rent ;

(*c*) applications under section thirty for the resumption of rent-free grants, or for the assessment to rent of land hitherto held rent-free ;

(*d*) applications for leases or counterparts, and the determination of the rates of rent at which such leases or counterparts are to be delivered ;

(*e*) applications to determine the nature or class of a tenant's tenure.

Power to make over cases

101. The Collector of the district, or any Assistant Collector in charge of a sub-division of a district, may make over any case, or class of cases, for inquiry and decision, from his own file, to any of his subordinates competent to deal with such case or class of cases under the provisions of this Act.

Power to withdraw cases

102. Collectors of districts, and Assistant Collectors in charge of sub-divisions of districts, may, respectively, withdraw any case or class of cases from any officers subordinate to them, and may deal with such case or class of cases themselves, or refer it for disposal to any other such revenue-officer competent to deal with the same under the provisions of this Act.

Powers exercisable by Collector of district.

103. The Collector of the district may exercise

(*a*) all powers given by this Act to Collectors of districts,

(*b*) all powers which by this Act are conferred, or can be conferred, on Assistant Collectors.

Investment of officer in charge of sub-division with powers of Collector.

The Local Government may invest any officer in charge of a sub-division of a district with all or any of the powers conferred by this Act on a Collector of a district.

Mode of conferring powers.

In conferrring powers under this Act, the Local Government may empower persons specially by name, or classes of officials generally by their official titles.

CHAPTER VI.

PROCEDURE IN SUITS UP TO JUDGMENT.

Place of instituting suits.

104. Suits under this Act shall be instituted in the district in which the subject of the suit, or some part thereof, is situate,

Plaint.

and all such suits shall be commenced by presenting to the Court a plaint, which shall contain—

(*a*) the name, description and place of abode of the plaintiff;

(*b*) the name, description and place of abode of the defendant, so far as they can be ascertained;

(*c*) the subject-matter of the claim, and its amount or value computed according to the Court Fees Act, 1870; and

(*d*) the date on which the right to sue accrued.

Managers of mahâls to be, for purpose of litigation, deemed landholders.

105. For the purpose of suing or being sued under this Act, the managers of mahâls, whether held under the Court of Wards or under direct management, shall be deemed to be landholders.

Suits by co-sharers in undivided property.

106. No co-sharer in an undivided property shall in that character be entitled separately to sue a tenant under this Act, unless he is authorized to receive from such tenant the whole of the rent payable by such tenant.[a]

[a] See *North Western Provinces Gazette*, 8th August, 1874, p. 1410.

Plaint by whom presented.

107. The plaint shall be presented by the plaintiff, or by an agent duly authorized on his behalf, who has personal knowledge of the facts of the case, or by an agent accompanied by a person who has such knowledge.

Verification of plaint.

The plaint shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect :—

"I, *A. B.*, the plaintiff named in the above plaint, do declare that what is stated therein is true to the best of my knowledge and belief."

False averment.

If the plaint contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be punishable according to the law for the punishment of giving or fabricating false evidence.

Document relied on by plaintiff to be presented with plaint.

108. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Court at the time of presenting his plaint.

Admission afterwards.

Unless such document be so delivered, or its non-production be sufficiently excused, or unless the Court see fit to extend the time for producing the same, it shall not afterwards be admitted.

Procuring production of document in possession of defendant.

109. If the plaintiff require the production of any document in the possession or power of the defendant, he may, at the time of presenting his plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

Plaint in suits for arrears of rent.

110. If the suit be for the recovery of an arrear of rent or revenue, or of a share of profits or village-expenses, or other dues under section ninety-three, the plaint shall specify the name of the village and estate, and of the pargana or other local division in which the land is situate :

and, if the suit be for an arrear of rent alleged to be due from any tenant, the plaint shall also specify the quantity of land, and (where fields have been numbered in a Government survey) the number of each field, and yearly rent of the land ; the amount (if any) received on account of the year for which the claim is made ; and in all cases coming under this section the plaint shall specify the amount in arrear, and the time in respect of which it is alleged to be due.

Plaint in suits for ejectment.

111. If the suit be for the ejectment of a tenant from any land, the plaint shall describe (as circumstances may require) the extent, situation and designation of the land ; and, if necessary for its identification, shall set forth its boundaries.

Return or amendment of plaint.

112. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Court may, at its discretion, return it to the plaintiff, or allow it to be amended.

Issue of summons.

113 If the plaint be in proper form, the Court, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant,

Order for personal attendance or appearance by agent.

and if the plaintiff require the personal attendance of the defendant, and satisfy the Court that such attendance is necessary, or the Court of its own accord require such attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons.

If the plaintiff or the Court does not require the personal attendance of the defendant, the summons shall order the defendant to appear either personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or is accompanied by a person who has such personal knowledge.

Fixing of day to be specified in the summons

114. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be, at the time, from the place where the Court is held,

Order to produce documents.

and the summons shall order the defendant to produce any document in his possession or power of which the plaintiff demands inspection, or upon which the defendant relies in support of his defence.

Order to bring witnesses.

It shall also direct him to bring with him his witnesses, if they are willing to attend without issue of process,

Form of summons.

and it shall be in the form (D) contained in the first schedule hereto annexed, or to the like effect.

Mode of serving summons

115. The summons shall be served by delivering a copy thereof to the defendant personally when practicable;

or, if the copy cannot be delivered to the defendant personally, by affixing copy of the summons to some conspicuous part of his usual residence, and also affixing a copy of the same in the Court.

Endorsement on summons.

116. If the summons be served by delivering a copy to the defendant personally, the Názir shall endorse on the summons the fact of such service.

If personal service be not effected, the Názir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Service of summons in another district.

117. If the usual residence of the defendant be in another district, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such district, who shall issue the summons, and return the same, after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

Deposit of cost of serving summons or warrant.

118. The amount of the cost of serving the summons

or, if a warrant be issued as provided in the next following section, of serving the warrant,

shall in all cases be deposited in Court by the plaintiff within such time before the issue of such summons or warrant as is fixed by the Court issuing the process.

If the said amount be not so deposited (except where the Court in exercise of the discretion reserved to it in section ninety-one allows the summons to be served gratis), the case shall be struck off the file of suits; Effect of failure to deposit.

but in such case the plaintiff may present another plaint at any time within the period allowed by the rules herein contained for the limitation of suits.

119. *a.* If in any suit against a tenant for the recovery of an arrear of rent, or in any suit for the recovery of an arrear of revenue, or a share of profits or village-expenses or other dues, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, the plaintiff shall present, with his plaint, an application for the issue of such warrant. Procedure when plaintiff desires issue of warrant of arrest.

b. When such application is presented, the Court shall examine the plaintiff or his agent, according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim; and if *primâ facie* it appear to the Court that the claim is well founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Court may issue a warrant for his arrest.

c. The Court shall fix a reasonable time for the return of the warrant, and the officer entrusted with the service thereof shall, at the time of arresting the defendant, deliver to him a notice addressed to the defendant containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he relies in support of his defence.

d. Every warrant issued and notice delivered under this section, shall be respectively in the forms (E) and (F) in the first schedule hereto annexed, or to the like effect.

120. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Court. Procedure after arrest of defendant.

121. When a defendant is brought before the Court under warrant, the Court shall with all convenient speed proceed to try the case in the manner hereinafter provided, Procedure when defendant is brought before Court under warrant.

and if the suit cannot be at once adjudicated, the Court may, if it think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon,

and may commit him to the civil jail to be there detained until he furnishes such security or deposits such sum as the Court orders.

Form of security-bond.

The security-bond shall be in the form (G) contained in the first schedule hereto annexed, or to the like effect.

Procedure when defendant cannot be arrested under warrant

122. If the defendant cannot be arrested under the warrant, the Court, on the application of the plaintiff, shall either postpone the case for such period as to it seems proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation, to be affixed in its own office and at the residence of the defendant, appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice, at the residence of the defendant.

If the defendant appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

Compensation for arrest applied for without reasonable cause.

123. If it appear to the Court that the arrest of the defendant was applied for without reasonable cause, the Court may, in its decree, award to him such sum not exceeding one hundred rupees as it may deem a reasonable compensation for any injury or loss which he has sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

Consequence of neither party appearing on day fixed.

124 If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

Judgment by default.

125. If on any such day the defendant only appear, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the plaintiff's right to the relief which he claims, in which case the Court shall proceed to give judgment for the plaintiff upon such admission without costs:

Judgment upon admission of claim.

Proviso.

Provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

If plaintiff only appear, Court may proceed *ex parte*.

126. If on any such day the plaintiff only appear, the Court, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or other evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

If defendant appear on adjourned hearing, Court may allow

127. If the defendant appear on any subsequent day to which the hearing of the suit is postponed under the last preceding section, the Court may, upon such conditions, if any, as to costs or otherwise as it thinks proper, allow the

defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance. — him to be heard in answer.

128. *a.* No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. — No appeal from judgment *ex parte* or by default;

b. But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff, within fifteen days from the date of the Court's decree, and, if a defendant, within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows good and sufficient cause for his previous non-appearance, and satisfies the Court that there has been a failure of justice, the Court may, upon such terms and conditions as to costs or otherwise as it thinks proper, revive the suit and alter or rescind the judgment according to the justice of the case. — But Court may revive suit and alter or rescind judgment.

c. But no judgment shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it. — Adverse party to be summoned.

129. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Court, the Court shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other party or his agent. — Examination.

130. If either of the parties be not bound to attend personally, any agent by whom he appears, or any person accompanying such agent, may be examined and cross-examined in like manner as the party himself would have been if he had attended personally. — Examination and cross-examination of agents.

131. At the time of the examination, the defendant may, if he think fit, file a written statement in his defence. — Defendant may file written statement.

132. The examination of the parties or their agents, or such other persons as aforesaid, shall be according to the law for the time being in force relative to the examination of witnesses in the civil Courts. — Mode of examination.

The substance of the examination shall be reduced to writing in the mother-tongue of the presiding officer, and shall be filed with the record.

133. If either of the parties produce a witness on such day, the presiding officer may take the evidence of such witness. — Witness produced may be examined.

134. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit: — Document relied on by defendant to be produced at first hearing.

and unless such document be so delivered, or its non-production be sufficiently excused, or unless the presiding officer see fit to extend the time for delivering the same, it shall not afterwards be admitted.

Decree after examination, if no further evidence is required.

135. If after the examination required by section one hundred and twenty-nine, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Court shall make its decree accordingly.

Party to attend in person when his agent is unable to answer

136. If on such examination as aforesaid either party be absent and his agent be unable to answer any material question relating to the case which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the case to a future day, and direct that the party whose agent was unable to answer as aforesaid shall attend in person on such day;

Judgment or order if he fail to appear.

and if such party fails to appear in person on the day appointed, the Court may pass judgment as in case of default, or make such other order as it deems proper in the circumstances of the case.

Procedure when parties at issue on question requiring evidence.

137. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Court shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Court.

Parties to produce witnesses or procure attendance by summons.

138. The parties shall produce their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Court in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Court shall thereupon issue a summons requiring such witness to attend.

Provisions regarding attendance, examination, &c., of witnesses.

139. The law and rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the civil Courts, shall, except so far as may be inconsistent with the provisions herein contained, apply to suits under this Act.

Case to be struck off if neither party appears.

140. If on the day fixed for the trial of any issue neither of the parties appear, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

Trial of issue *ex parte*.

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party, upon such evidence as may be then before the Court.

Provisions to

141. When suits under this Act are instituted or defended by agents em-

ployed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such agents; apply when suits are instituted or defended on behalf of landholders by agents.

and anything which, by this Act, is required or permitted to be done by a party in person, may be done by any such agent as aforesaid.

Processes served on any such agent shall be as effectual for all purposes in relation to the suit, as if the same had been served on the landholder in person: Processes served on such agents.

and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.

142. A female plaintiff or defendant shall not be required to attend in person, if she be of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public. Personal attendance of female plaintiff or defendant when not required.

143. Any party to a suit may employ an authorized agent or mukhtár to conduct the case on his behalf: Parties may employ agents or mukhtárs;

but the employment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant, in cases where his personal attendance is required by the summons, or any order of the Court; Personal attendance when not excused.

and no fee for any agent or mukhtár shall be charged as part of the costs of suit in any case under this Act unless the Court certify that, under the circumstances of the case, such fee is proper to be allowed. Fee for agents not chargeable as costs.

144. The Court may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, Court may grant time or adjourn hearing.

and may also, from time to time, in order to the production of further evidence, or for other sufficient reason to be recorded by the Court, adjourn the hearing of any case, to such day as to it may seem fit.

145. The presiding officer may, at any stage of a case, cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government, with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person. Court may cause local enquiry and report, or may itself enquire.

The provisions of the law for the time being in force relative to local inquiries by Amíns or Commissioners, under orders of the civil Courts, shall apply to any local inquiry made by any officer under this section, Provisions applied to such inquiry.

and, so far as they are applicable, to inquiries made by the presiding officer of the Court in person.

In the latter case the presiding officer, after completing the inquiry, shall record such observations as appear to him appropriate, and the observations so recorded shall form part of the proceedings in the suit. Record in case of inquiry by Court.

Defendant may pay admitted debt and costs into Court.

146. The defendant in any suit under this Act may pay into Court such sum of money as he thinks a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sums shall be paid to the plaintiff.

Plaintiff chargeable with subsequent costs if he proceed and recover no further sum.

If the defendant deposit less than the sum claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than has been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

No interest to plaintiff after date of deposit by defendant.

147. No interest shall be allowed to a plaintiff on any sum paid by the defendant into the Court from the date of such payment, whether such sum be in full of the plaintiff's claim, or fall short thereof.

In suits where right to receive rent is disputed, third person who has received it may be made a party.

148. When in any suit between a landholder and a tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the tenant is disputed on the ground that some third person has actually and in good faith received and enjoyed such rent before and up to the time when the right to sue accrued, such third person may be made a party to the suit,

and the question of such receipt and enjoyment of the rent by such third person may be enquired into, and the suit shall be decided according to the result of such enquiry :

Saving of right to sue in civil Court to prove title to rent.

Provided that the decision of the Court shall not affect the right of either party entitled to the rent of such land, to establish his title by suit in the civil Court, if instituted within one year from the date of the decision.

Court may allow tenant to repair damage caused by certain acts or omissions.

149. Whenever a decree is given for the ejectment of a tenant, or the cancelment of his lease, on account of any act or omission by which the land in his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it think fit, allow him to repair such damage within one month from the date of the decree, or order him to pay such compensation, within such time, or make such other order in the case, as the Court thinks fit,

and if such damage be so repaired, or compensation so paid, or order obeyed, the decree shall not be executed.

Delivery of judgment.

150. Every judgment under this chapter shall be pronounced in open Court.

Its language and contents.

151. The judgment shall be written in the mother-tongue of the presiding officer, and shall contain the reasons for the same, and shall be dated and signed by the presiding officer at the time it is pronounced :

When it may be in English.

Provided that, where his mother-tongue is not English, the judgment may be written in English, if he is able to write a clear and intelligible decision in that language.

152. Every officer invested with powers under this Act may hold a Court for hearing and determining suits under this Act in any place within the limits of the district to which he is appointed. Power to hold Court in any place within district.

Every hearing shall be in open Court, and the parties to the suit or their authorized agents shall have due notice to attend in such place.

CHAPTER VII.

Procedure in Execution of Decrees in Suits.

153. If the decree be for the ejectment of any tenant from land occupied by him, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree thereto. Mode of executing decree for ejectment of tenant.

If any opposition is made to the execution of the order for giving such possession or occupancy, by the party against whom the order is made, the Magistrate, on the application of the Collector of the district or Assistant Collector, shall give effect to the same. Magistrate to give it effect in case of opposition.

154. If the decree be for the payment of arrears of rent or revenue, or of money, and the defendant has been committed to jail, or appear in Court pursuant to the conditions of any security-bond given under section one hundred and twenty-one, the Collector of the district or Assistant Collector may order that he be detained in, or committed to, the civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree. Power to order detention in, or commitment to, civil jail, in certain cases.

155. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety. Process against surety on failure to deliver judgment-debtor into custody.

156. *a.* A writ of execution may be issued against either the person or the property of a judgment-debtor; Process of execution against person or property, but not both.

but process shall not be issued simultaneously against both person and property.

b. Such writ may be issued on the oral application of the judgment-creditor, his agent or mukhtár, made at the time the decree is passed, or, thereafter, upon the written application of the judgment-creditor, his agent or mukhtár. Applications on which it may issue.

c. Writ of execution against the person or moveable property of a debtor shall be in the form (H) or (I) contained in the first schedule hereto annexed, or to the like effect. Form of writ of execution.

Execution against moveable property.

157. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor;

but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects, to the amount of the judgment and costs.

In either case, the property to be seized shall be pointed out to the officer entrusted with execution of the process, by the creditor or his agent:

Articles exempted from attachment.

Provided that no implements of husbandry, or cattle actually employed in agriculture, or tools of artisans, shall be attached under this section.

Date and duration of writs.

158. Every writ of execution shall bear date on the day on which it is signed by the Collector of the district or Assistant Collector, and shall continue in force for such period as he may direct (not being more than sixty days) calculated from such date.

Second and successive writs.

159. Second and successive writs of execution may be issued by order of the Collector of the district or Assistant Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year execution not to issue without notice to party concerned.

160. Process of execution shall not be issued upon any judgment, without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year has elapsed from the date of the judgment, or from the date of the last previous application for execution.

No execution against heir of deceased party without notice.

161. Execution on a judgment shall not issue against the heir or other representative of a deceased party, unless notice to appear and be heard has been previously served on such heir or other representative.

No execution after three years, on judgment for less than Rs. 500. Regulation of period in such case.

162. No process of execution shall be issued on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees;

in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the civil Court.

Procedure in execution of writ against person.

163. If a writ issue for taking any person in execution, the officer charged with the execution of the writ shall bring him with all convenient speed before the Collector of the district or Assistant Collector.

If such person does not then deposit in Court the full amount specified in the writ,

or make such arrangement for the payment of the same as is satisfactory to the judgment-creditor,

or satisfy the Collector of the district or Assistant Collector that he has no present means of paying the same amount,

the Collector of the district or Assistant Collector shall send him to the civil jail, there to remain for such time as may be directed by a warrant addressed to the keeper of the jail, unless in the meanwhile he pays the full amount for the payment of which he is liable under the decree:

Limit of imprisonment.

Provided that the time for which a debtor may be confined in execution of a decree under this Act, shall not exceed three months when the amount decreed (exclusive of costs) does not exceed fifty rupees,

or six months when such amount does not exceed five hundred rupees,

or two years in any other case.

No second imprisonment under same judgment.

164. *a.* Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

When further liability extinguished.

b. If the amount due under the decree does not exceed one hundred rupees, the Collector of the district or Assistant Collector may declare such discharged person absolved from further liability under that decree, and such liability shall thereupon be extinguished.

When not extinguished.

c. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

Diet-money to be deposited at time of issue of warrant.

165. Every person applying for the issue of a warrant of arrest under section one hundred and nineteen, or suing out process of execution against the person of any judgment-debtor, shall deposit in Court, when the warrant issues, diet-money for thirty days at such rate not exceeding two annas per diem, as the Collector of the district or Assistant Collector may direct, unless for any special reason he directs that deposit be made at a higher rate, which shall not exceed four annas per diem.

Effect of non-payment of diet-money in advance during imprisonment.

166. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

Diet-money spent to be costs in suit.

167. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit,

Refund of remainder.

and any diet-money not so spent shall be returned to the person who deposited the same.

Procedure in executing writ against moveable property.

168. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation, specifying the day upon which the sale is

intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be sent to the Collector of the district or Assistant Collector, and shall be affixed in his office.

Time to elapse before sale of moveable property.

169. No moveable property taken in execution under this Act shall be sold before the expiration of ten days next after the day on which such property is so taken.

Custody meanwhile.

Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the officer executing the writ.

Provisions applied to sale.

The provisions of sections seventy-four to seventy-eight (both inclusive), so far as the same are applicable, shall apply to sales under this section.

Sale not vitiated by irregularity.

170. No irregularity in publishing or conducting a sale of any moveable property under an execution shall vitiate such sale.

Right to sue for compensation.

But any person injured by such irregularity may recover compensation for such injury by suit in the civil Court:

Limitation.

provided that such suit be brought within one year from the date of sale.

In executing decrees for money, when execution may be applied for against immoveable property.

171. In the execution of any decree for the payment of arrears of rent or revenue, or of money, under this Act, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

Process when immoveable property is not a mahál.

172. If the immoveable property against which execution is applied for be other than a mahál, or share of a mahál, process shall be issued in the same manner as for the attachment and sale of moveable property: and the provisions of sections one hundred and sixty-eight, one hundred and sixty-nine and one hundred and seventy shall be applicable.

Procedure when it is a mahál.

173. When such property is a mahál, or a share of a mahál, the decree shall be sent for execution to the Collector of the district in which such property is situate,

and if the judgment-debtor satisfies the Collector of the district that there is reasonable ground to believe that the amount of the judgment-debt may be raised by mortgage of the property, or by letting it on lease, or by disposing by private sale of a portion of the property or any other property belonging to the judgment-debtor, the Collector of the district may, on the application of the judgment-debtor, postpone the sale for such period as the Collector of the district thinks proper to enable the judgment-debtor to raise the amount,

and if the judgment-debtor satisfies his creditor, the execution shall be stayed, and the Collector shall report the fact to the Court by which the decree was made.

174. If the judgment-debtor obtaining a postponement of the sale fails to satisfy his creditor within the period so fixed, or if the judgment-debtor does not apply for, or applies for but does not obtain, a postponement of the sale, and the Collector of the district considers that the sale of the mahál or share is inexpedient, and that satisfaction of the decree may be made by means of a temporary alienation of the property, the Collector of the district shall cause an accurate rent-roll of the property to be prepared, and ascertain the annual income derivable therefrom.

Procedure where judgment-creditor fails to satisfy creditor within further time or Collector thinks sale inexpedient.

If, in the opinion of the Collector of the district, such income is sufficient to pay off the judgment-debt with interest at six per cent. per annum, within any period not exceeding fifteen years from the date of the decree, he may transfer the property to the judgment-creditor, or if the judgment-creditor refuse to take it, to some other person, or he may hold it under his own management, for such period not exceeding fifteen years, as may be sufficient for the recovery of the debt with interest as aforesaid, and on such conditions as to the payment of such debt and interest as he deems expedient.

Power to transfer property to judgment-creditor.

Power to hold property under management.

Orders passed under this section and section one hundred and seventy-three shall be subject to revision by the Commissioner of the Division and the Board, but shall not be open to appeal to the civil Court.

175. If in the opinion of the Collector of the district the recovery of the debt under section one hundred and seventy-four is impossible, or if the sale of the property appear to him advisable on other grounds, he shall report, through the Commissioner of the Division, the case for orders to the Board.

Report of case to Board.

176. On the receipt of such report, the Board may make, or cause to be made, such further endeavours for the recovery of the debt under the provisions of section one hundred and seventy-four, as to it may seem practicable.

Procedure on receipt of report.

177. If it appear to the Board that the debt cannot be recovered under section one hundred and seventy-four, or if the sale of the property appear to it advisable on other grounds, it shall order the property to be sold, in which case the sale shall be made under the rules in force for the sale of land for arrears of land-revenue, but without prejudice to the incumbrances (if any) to which such property may be subject.

Power to order sale of property.

178. If before the day fixed for any sale of any property under this Act, a third party appear before the Collector of the district or Assistant Collector, and claim a right or interest to or in any of the property, he shall examine such party or his agent, according to the law for the time being in force relative to the examination of witnesses,

Examination of third party claiming interest in property.

and, if he see sufficient reason for so doing, may stay the sale of such property.

Stay of sale.

Adjudication of such claims.

179. The Collector of the district or Assistant Collector may adjudicate upon such claim, and make such order as he thinks fit between the claimant and the plaintiff and defendant in the original suit.

Rules applied.

In trying such claim, the Collector of the district or Assistant Collector shall be guided by the rules contained in this Act, so far as they may be applicable.

Compensation awardable against claimant failing to establish right

180. If the claimant fail to establish his right to the property taken in execution, the Collector of the district or Assistant Collector may, at the time of disposing of the case, order him to pay to the judgment-creditor the costs of the proceedings on the claim, and also such sum as he thinks sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

No appeal from order under section 179 or 180.

181 *a*. No appeal shall lie from any order passed under section one hundred and seventy-nine or section one hundred and eighty by the Collector of the district.

Right to sue in civil Court.

b. But the party against whom the same is given may bring a suit in the civil Court to establish his right at any time within one year from the date of the order:

Proviso.

c. Provided that, if the order be for the sale of the property taken in execution, the suit shall not be for the recovery of such property, but shall be for compensation from the judgment-creditor by whom it was brought to sale.

CHAPTER VIII.

APPEALS.

(*A*) *From Decrees in Suits.*

Judgment of Collector of district or Assistant Collector of first class when final.

182. In suits under this Act, tried and decided by a Collector of a district or an Assistant Collector of the first class, his judgment shall be final, and not open to revision or appeal, except as provided by section one hundred and eighty-nine.

Appeal from decision of Assistant Collector of second class.

183. All decisions of the Assistant Collector of the second class in suits mentioned in section ninety-three shall be appealable to the Collector of the district, whose order thereon shall (subject to the provisions of section one hundred and eighty-nine) be final.

Time for presentation.

184. The petition of appeal shall be presented to the Collector of the district within thirty days from the date of the decree.

Procedure on appeal

185. The Collector of the district may either dismiss the petition or may fix a day for hearing the appeal, and in that case he shall cause notice of the same to be served on the respondent in the manner hereinafter prescribed for the service of summons.

If, on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal may be dismissed for default.

If the appellant appears and the respondent does not appear in person or by an agent, the appeal may be heard *ex parte*.

Re-admission of appeal.

186. If an appeal be dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector of the district to re-admit the appeal,

and if it be proved to the satisfaction of the Collector of the district that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector of the district may re-admit the appeal.

Judgment in appeal.

187. After hearing the appeal, the Collector of the district shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits.

Re-hearing of suits not open to appeal.

188. In suits in which the judgment of the Collector of the district or Assistant Collector is final, as provided in section one hundred and eighty-two, he may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case, which the applicant had no knowledge of, or could not produce, at the time of trial.

Appeal to District Judge.

189. An appeal shall lie to the District Judge from the decision of the Collector of the district or Assistant Collector of the first class, in all suits mentioned in section ninety-three in which the amount or value of the subject-matter exceeds one hundred rupees, or in which the proprietary title to land has been determined between parties making conflicting claims thereto:

Appeal to High Court.

Provided that, where the amount or value of the subject-matter of the suits exceeds five thousand rupees, the appeal shall lie to the High Court.

Rules as to time of presentation, &c., to apply.

190. The rules for the time being in force in regard to the time within which appeals from the decisions of civil Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the District Judge or High Court under this Act.

Special appeal to High Court from District Judge.

191. The decisions of District Judges passed in regular appeal under this Act, shall be open to special appeal to the High Court, in the same manner, and subject to the same rules, as the decisions of District Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure and the Indian Limitation Act, 1871.

(B).—From Orders on Applications or relating to the Execution of Decrees.

(1) *Assistant Collectors of the Second Class.*

Appeal from Assistant Collector of second class.

192. An appeal to the Collector of the district shall lie from all orders passed under this Act by an Assistant Collector of the second class

(2) *Assistant Collectors of the First Class.*

Appeal from orders of Assistant Collectors of first class on certain applications.

193. An appeal to the Commissioner of the Division shall lie from all orders passed by an Assistant Collector of the first class,

(*a*) on applications under section ninety-nine, where the amount or value of the subject-matter exceeds one hundred rupees,

(*b*) on applications under section one hundred.

Appeal from other orders of Assistant Collector of first class.

194. An appeal to the Collector of the district shall lie from all other orders passed under this Act by an Assistant Collector of the first class, except—

(*a*) orders on applications mentioned in section ninety-eight;

(*b*) orders on applications mentioned in section ninety-nine;

(*c*) orders passed in the course of a suit and relating to the trial thereof.

Final orders of Assistant Collector of first class.

195. The orders of an Assistant Collector of the first class on the following applications shall be final—

(*a*) applications mentioned in section ninety-eight;

(*b*) applications mentioned in section ninety-nine, where the amount or value of the subject-matter does not exceed one hundred rupees.

(3) *Collector of the District.*

Appeal from certain orders of Collector of district.

196. An appeal to the Commissioner of the Division shall lie from orders passed by the Collector of the district,

(*a*) under section ninety-nine, when the amount or value of the subject-matter exceeds one hundred rupees,

(*b*) under section one hundred.

In all other cases orders under this Act passed by the Collector of the district shall be final, subject to review by the Commissioner of the Division or the Board.

(4) *Commissioner of the Division.*

Finality of orders of Commissioner of Division.

197. Save as provided by section one hundred and ninety-eight, the orders of the Commissioner of the Division on appeals shall be final, subject to review by the Board.

Appeal to Board from his decisions on appeals against orders on applications mentioned in section 100.

198. An appeal from the decisions of the Commissioner of Division on appeals against orders passed by the Collector of the district or Assistant Collector on the applications mentioned in section one hundred shall lie to the Board, except where the Commissioner of the Division dismisses the appeal.

In such case the provisions of section one hundred and ninety-nine shall apply.

Power of Board to call for, and pass orders on, cases.

199. The Board may at any time call for any case which has come before any Commissioner of Division, or any Court subordinate to him, and pass such orders thereon, consistent with this Act, as the Board thinks fit.

Time for appealing.

200. No appeal shall be brought to the Collector of the district after the expiration of thirty days, or to the Commissioner of the Division after the expiration of sixty days, or to the Board of Revenue after ninety days, from the date of the order complained of.

Admission of appeals after prescribed period.

201. Any appeal under this Act may be admitted after the period of limitation prescribed therefor when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order under this section admitting an appeal.

CHAPTER IX.

MISCELLANEOUS.

Time to be excluded in computing limitation-period.

202. In computing the period of limitation prescribed for any suit under this Act, the day on which the right to sue accrued shall be excluded.

In computing the period of limitation prescribed for any appeal under this Act, the day on which the judgment or order complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.

Rule as to last day for presentation or deposit when Court is closed on such day.

203. Whenever a Court is closed on the last day of any period provided in this Act for the presentation of any memorandum of appeal, or for the deposit or payment of any money in or into Court, the day on which the Court re-opens shall be deemed to be such last day.

Power to state case involving point of law for opinion of District Judge.

204. *a.* If in any suit instituted, or on any application made, under this Act, it appears to the presiding officer that any question in issue involving a point of law is more proper for the decision of a civil Court, such officer, if a Collector of a district, or the Collector of the district on the representation of such officer, may cause a case to be stated for the opinion of the District Judge, who shall hear the case in such manner as nearly as may be as is prescribed for the hearing of cases by the High Court by sections twenty-four, twenty-five and twenty-six of Act No. XI of 1865.[a]

b. If the District Judge finds that the case is insufficiently stated, he may return it to the Collector of the district for amendment.

c. Subject to any limits of value or time provided by law for cases falling under the Code of Civil Procedure; an appeal shall lie from the judgment of the District Judge to the High Court.

[a] See General Acts, vol. II, p. 800.

d. The District Judge shall return the case with the opinion of the civil Court to the Collector of the district, and the revenue Courts shall decide the suit or application in accordance with such opinion.

e. The costs attending such case shall be dealt with as costs in the suit or on the application in the revenue Court.

Power to refer to High Court questions as to jurisdiction.

205. *a.* If in any suit instituted, or on any appeal presented, in a civil or revenue Court, the Judge or presiding officer doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court.

b. On any such reference being made, the High Court may order the Judge or presiding officer, either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit or appeal.

c. The order of the High Court on any such reference shall be final, and shall not be questioned by the same parties in the same suit.

Procedure where objection that suit was instituted in wrong Court was not taken in Court of first instance.

206. In all suits instituted in any civil or revenue Court, in which an appeal lies to the District Judge or High Court, an objection that the suit was instituted in the wrong Court shall not be entertained by the appellate Court, unless such objection was taken in the Court of first instance; but the appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where such objection was taken in Court of first instance.

207. If in any such suit, such objection was taken in the Court of first instance, but the appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where, in such cases, the appellate Court has not materials for determining the suit.

208. If in any such suit the appellate Court has not before it the materials necessary for the determination of the suit, it shall proceed under the provisions of the Code of Civil Procedure relating to appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken by the Court of first instance, it may direct its order, either to the Court in which the suit was instituted, or to the Court it may hold competent to entertain the suit, whichever course it may deem most conducive to justice,

and the objection that the order of a subordinate appellate Court has been directed to a Court which was not competent to entertain the suit shall not be taken on special appeal.

Suits by co-sharer against lambardár for share of profits.

209. In any suit brought by a co-sharer against a lambardár for a share of the profits, the Court may award to the plaintiff not only a share of the profits actually collected, but also a sum equal to the plaintiff's share in the profits which, through gross negligence or misconduct, the lambardár has omitted to collect.

Tenant's power to implead persons claiming through landholder.

210. In any suit brought by a tenant against a landholder to recover possession of a holding, the plaintiff may join as a defendant to the suit any other person in possession of the holding, who may claim title through the landholder.

Landholder's power to implead persons claiming through tenant.

In any suit brought by a landholder to eject a tenant, the plaintiff may join as a defendant to the suit any other person in possession of the holding, who may claim title through the tenant.

Power of Local Government to make rules.

211. The Local Government may from time to time make rules consistent with this Act—

(*a*) for the guidance of officers in determining, under sections thirteen, fourteen, fifteen, seventeen, eighteen and twenty, the rent payable by tenants,[a]

(*b*) for the guidance of officers assessing rent under section thirty,[b]

(*c*) as to the dates on which instalments of rent shall fall due,[c]

(*d*) as to the procedure to be followed on all applications under section ninety-five.[d]

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Power of Board to make rules.

The Board with the previous sanction of the Local Government, may from time to time make rules consistent with the provisions herein contained, for the guidance of all persons in matters connected with the enforcement of this Act.

Instalments when to be deemed in arrear.

212. When the Local Government has made a rule fixing the date on which any instalment of rent shall fall due, no such instalment shall, for the purposes of this Act, be deemed to be in arrear unless it remains unpaid after the date fixed by such rule.

THE FIRST SCHEDULE.

FORM A (*see section* 51).

I, *A. B.*, of , solemnly declare that I did personally [*or* by my agent *C. D.*], on the day of , tender payment to *E. F.* of the sum of Rs. as and for the whole amount due from me on account of rent from the month of to the month of both inclusive. I further declare that the said *E. F.* refused to accept the sum so tendered, and to give a receipt in full for the same, and I

[a, b] Rules framed under these clauses, *North-Western Provinces Gazette*, 24th July, 1875, pp. 1015—1017.

[c] Rules under this clause, *ibid.*, 27th March, 1875, p. 416: 21st October, 1876, pp. 1357—1359: 6th January, 1877, pp. 4, 5.

[d] Rules under this clause, *ibid*, 10th January, 1874, p. 37: *ibid.*, 24th January, 1874, p. 291.

declare that, to the best of my belief, the sum of rupees so tendered, and which I now desire to pay into court, is the full amount I owe the said *E. F.*, and I hereby apply for leave to pay the same accordingly.

FORM B (*see section* 52).

Court of the Collector of , dated the day of

To *E. F.* &c.

With reference to the written declaration of *A. B.*, you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you, or to your duly authorized agent, on application.

[This is to be written on a copy of the declaration in Form A made by the person paying the money into court.]

FORM C (*see section* 69).

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of Commissioner for sale of distrained property.

A. B., Distrainer.

[*Name, description and address of the owner of the property.*]

Whereas the said *A. B.* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required, either to pay the said sum to the said *A. B.*, or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 187 .

FORM D (*see section* 114).

FORM OF SUMMONS TO DEFENDANT.

No. *(of suit)* dated

In the Court of

A. B., Plaintiff.

[*Name, description and address of plaintiff.*]

C. D., Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A. B.* has brought a claim against you in this Court for (*here specify particulars of claim as given in the plaint*), you are hereby re-

quired to appear in person in this Court on the day of [*if not specially required to appear in person, state,* "in person, or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM E (*see section* 119).

FORM OF WARRANT OF ARREST.

No. (*of suit*) dated

In the Court of

A. B., Plaintiff.

C. D., Defendant.

To the Názir of the Court of the Collector of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 187 .

FORM F (*see section* 119).

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.

[*Name, description and address of plaintiff.*]

C. D., Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A. B.* has brought a claim against you in this Court for (*here specify particulars of claim as given in the plaint*) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM G (*see section* 121).

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas *A. B.*, plaintiff, has instituted a suit in the Court of the Collector of against *C. D.*, defendant, and the said *C. D.* has been required to give security for his appearance at any time when called on while the suit is pending and until execution of the decree, I, *E. F.*, hereby declare myself surety for the said *C. D's* appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said *C. D.* may be liable under the decree. *If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.*

FORM H (*see section* 156).

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.
C. D., Defendant.

To the Názir of the Court of the Collector of

Whereas the said *C. D.* was directed by a decree of this Court, under date the day of 187 , to pay to *A. B.* the sum of and for costs of suit, amounting to , and whereas the said *C. D.* has omitted to pay the same, you are hereby commanded to apprehend the said *C. D.*, and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM I (*see section* 156).

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff.
C. D., Defendant.

To the Názir of the Court of the Collector of

Whereas *C. D.* was directed by a decree of this Court under date the day of 187 , to pay to *A. B.* the sum of and for costs of suit, amounting to , and whereas the said *C. D.* has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said *C. D.* as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell

such property of the said *C. D.*, on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

THE SECOND SCHEDULE.

[*See section 1.*]

I. The province of Kumaon and Garhwál.

II. The Terai Parganas, comprising—Bázpúr, Káshípúr, Jaspúr, Rudarpúr, Gadarpúr, Kilpúrí, Nanak-Mattha and Bilheri.

III. In the Mirzapúr district:—

(1.) The tappás of Agori Khás and South Kon in the Pargana of Agori.

(2.) The tappá of British Singrauli in the Pargana of Singrauli.

(3.) The tappás of Phulwá Dudhí and Barhá in the Pargana of Bichipár.

(4.) The portion lying to the South of the Kaimor Range.

IV. The Family Domains of Mahárájá of Benares comprising the following parganas:—

Bhadohi and Kheyra Mángror in the Mirzápúr district,

Kaswá Rájá in the Benares district.

V. The tract of country known as Jaunsar Báwar in the Dehra Dhún district.

THE NORTH-WESTERN PROVINCES LAND REVENUE ACT, 1873.

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FIRST SCHEDULE—Districts to which Act does not apply.

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ACT No. XIX OF 1873.

Received the Governor General's assent on the 22nd of December 1873.

An Act to consolidate and amend the Law relating to Land-Revenue and the jurisdiction of Revenue Officers in the North-Western Provinces.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to land-revenue and the jurisdiction of Revenue-officers in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The North-Western Provinces Land-Revenue Act, 1873:"

Local extent. It extends in the first instance to all the territories for the time being under the government of the Lieutenant-Governor of the said Provinces, except those specified in the first schedule hereto annexed;

But the Local Government may, by notification in the official Gazette, extend the whole or any part of this Act to all or any of the territories so excepted.

Commencement. This Act shall come into force on the passing thereof.

2. The Regulations and Acts mentioned in the second schedule hereto annexed are repealed to the extent specified in the third column thereof. Enactments repealed.

But all rules prescribed, appointments made, powers conferred, and notifications published under any such enactment, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred and published hereunder.

And all proceedings now pending which have been commenced under any enactment hereby repealed, shall be deemed to be commenced under this Act, except where a decree has been made or an appeal presented.

3. In this Act—unless there be something repugnant in the subject or context, Interpretation-clause.

(1) "Mahál" means— 'Mahál.'

(*a*) any local area held under a separate engagement for the payment of the land-revenue, and for which a separate record-of-rights has been framed, and

(*b*) any local area of which the revenue has been assigned or redeemed, and for which a separate record-of-rights has been framed:

(2) "Collector of a District" means the chief officer in charge of the revenue-administration of a district: 'Collector of a district.'

(3) "Commissioner of a Division" means the chief officer in charge of the revenue-administration of a Division: 'Commissioner of a Division.'

(4) "Rent" means whatever is to be paid, delivered or rendered by a tenant on account of his holding, use or occupation of land: 'Rent.'

(5) "Sír-land" means— 'Sír-land.'

(*a*) land recorded as sír at the last settlement of the district in which it is situate, and continuously so recorded since; or

(*b*) land continuously cultivated for twelve years by the proprietor himself with his own stock, or by his servants, or by hired labour; or

(*c*) land recognized by village-custom as the special holding of a co-sharer, and treated as such in the distribution of profits or charges among the co-sharers:

(6) "Annual value" means double the amount of the revenue, or, in the case of mahálsa permanently assessed or exempt from the payment of revenue, double the amount that would be assessable on such mahálsa if they were liable to assessment or revision of assessment: 'Annual value.'

(7) "Incumbrance" means a charge upon or claim against land arising out of private contract: 'Incumbrance.'

(8) "Agricultural year" means a year commencing on the first day of July, and ending on the thirtieth day of June: 'Agricultural year.'

'Revenue Court.' (9) "Revenue Court" means all or any of the following authorities · (that is to say) the Board of Revenue of the North-Western Provinces, and all members thereof, Commissioners, Collectors, Assistant Collectors, Settlement-officers, Assistant-settlement-officers and Tahsíldárs:

'Revenue-free' (10) "Revenue-free" applies to land whereof the revenue has either wholly or in part been released, compounded for, redeemed or assigned:

'Board.' (11) "Board" means the Board of Revenue of the North-Western Provinces:

'Minor.' (12) "Minor" means a person who has not completed his age of eighteen years.

CHAPTER II.

Constitution and Powers of Revenue Officers.

Chief controlling authority in revenue matters. 4. The chief controlling authority in all matters connected with the land-revenue of the said territories is vested in the Board, subject to the Local Government.

Subject to the orders of the Local Government, the Board shall sit in any place in the North-Western Provinces that it thinks fit, and it shall have the powers conferred by chapter VII of this Act on Commissioners of Divisions.

Appointment and removal of members of Board. 5. The Local Government, with the previous sanction of the Governor General in Council, shall appoint, and may from time to time remove, the members of the Board.

Power to distribute business. 6. With the previous sanction of the Local Government, and subject to rules which it may from time to time prescribe, the Board may distribute its business and make such territorial division of its jurisdiction amongst its members as to the Board may seem fit.[a]

Orders of member to be orders of Board. All orders made or decrees passed by a member of the Board, in accordance with such distribution or division, shall be held to be the orders or decrees (as the case may be) of the Board.

Alteration or reversal of orders. 7. No decree or order coming under the consideration of the Board on appeal or on being called for or reported for orders under section two hundred and fifty-three or section two hundred and fifty-four, shall be altered or reversed without the concurrent judgment of two members of the Board.

Reference to Local Government in case of difference of opinion. 8. When the members of the Board are equally divided in opinion as to any order to be made in the course of its non-judicial business, the question regarding which there is such division shall be referred for decision to the Local Government.

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[a] Division of work according to subjects between members of Board, *North-Western Provinces Gazette*, 26th June, 1875, Supplement, p 877.

Territorial division of jurisdiction of Board as a Revenue Court, *North-Western Provinces Gazette*, 1st April, 1876, p 377.

Power of Board to review and alter its orders and decrees.

9. The Board may review, and may rescind, alter or confirm any order made by itself, or by any of its members, in the course of its non-judicial business.

But no decree passed judicially by it or by any of its members shall be so reviewed except on the application of a party to the cause within ninety days from the passing of the decree, or, if good cause be shown, within any longer period.

Members not empowered to alter each other's orders.

A single member vested with all or any of the powers of the Board shall not have power to alter or reverse a decree or order passed by the Board or by any member other than himself.

Power to authorize member to exercise powers of Board

10. Notwithstanding anything hereinbefore contained, the Local Government may authorize any member of the Board to perform or exercise, either generally or in any particular locality, all or any of the duties and powers imposed and conferred on the Board.[a]

Commissioners of Division.

11. The Local Government shall appoint in each Division a Commissioner, who shall within his Division exercise the powers and discharge the duties conferred and imposed on a Commissioner of Division under this Act, or under any other law for the time being in force, and who shall, subject to the control of the Board, exercise authority over all the revenue-officers in his Division.

Collector of the district.

12. The Local Government shall appoint in each district an officer who shall be the Collector of the district, and who shall exercise, throughout his district, all the powers and discharge all the duties conferred and imposed on a Collector or an Assistant Collector by this Act or any other law for the time being in force.

The Local Government may confer on any Assistant Collector in charge of a sub-division of a district all or any of the powers of a Collector of a district, and all powers so conferred shall be exercised subject to the control of the Collector of the district.

Assistant Collectors.

13. The Local Government may appoint to each district as many other persons as it thinks fit to be Assistant Collectors of the first or second class.

All such Assistant Collectors, and all other persons employed in maintaining revenue-records or otherwise in or about the business of the land-revenue, shall be subordinate to the Collector of the district.

Power to alter limits of divisions, &c, and to form sub-divisions.

14. The Local Government may from time to time alter the limits of any division, district or tahsíl, and may divide any district into sub-divisions, and from time to time alter the limits of such sub-divisions.

All existing tahsíls shall be sub-divisions of districts until they are so altered.

Assistant Collector in charge of sub-division of district.

15. The Local Government may place any Assistant Collector of the first class in charge of one or more sub-divisions of a district, and may at any time remove him therefrom.

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[a] *North Western Provinces Gazette*, 26th June, 1875, Supplement, p 877

Such Assistant Collector shall be called an Assistant Collector in charge of a sub-division of a district, and shall exercise the powers conferred upon him by this Act or by any other law for the time being in force, subject to the control of the Collector of the district.

The Local Government may, from time to time, delegate its powers under this section to the Collector of the district, and may revoke such delegation.

Subordination of revenue-officers.

16. Every officer of a sub-division of a district employed in maintaining revenue-records or otherwise in or about the business of the land-revenue shall be subordinate to the Assistant Collector (if any) in charge of such sub-division, subject to the general control of the Collector of the district.

Conferring of powers.

17. In conferring powers under this Act, the Local Government may empower persons by name, or classes of officials generally, by their official titles.

Transfer of cases to subordinates.

18. The Collector of the district, or any Assistant Collector in charge of a sub-division of a district, or officer in charge of a settlement, may make over any case, or class of cases, arising under the provisions of this Act or otherwise, for enquiry or decision from his own file to any of his subordinates competent to deal with such case or class,

Power to withdraw cases from subordinates.

or may withdraw any such case or class of cases from any revenue-officer subordinate to him, and may deal with such case or class himself, or refer the same for disposal to any other such revenue-officer competent to deal therewith.

Power to vary and cancel powers.

19. The Local Government may vary or cancel any order conferring powers under this Act.

Collector of the district in case of temporary vacancy.

20. If the Collector of the district dies, or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district in revenue matters shall be held to be the Collector of the district under this Act until the Local Government appoints a successor to the Collector so dying or disabled, and such successor takes charge of his appointment.

Powers of officers transferred to another district.

21. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act in any district, is transferred to an equal or higher office of the same nature within another district, he shall, unless the Local Government otherwise directs, be held to be invested with the same powers in the district to which he is so transferred.

Appointment of tahsíldárs.

22. Tahsíldárs shall be appointed by the Board, subject to such rules as to qualification or otherwise as the Board, subject to the sanction of the Local Government, may from time to time make under section two hundred and fifty-seven.[a]

Power to form and alter patwáris' circles.

23. The Collector of the district, with the sanction of the Board, may arrange all the villages of such district in patwáris' circles, and may, from time to time, alter the limits of such circles.

[a] Rules as to Tahsíldárs, *North-Western Provinces Gazette*, 27th March, 1875, pp. 422—424. *Ibid*, 23rd December, 1876, p. 1668.

But no such arrangement or alteration shall be final unless and until it has been sanctioned by the Board.

Appointment of patwárí to each circle.

24. A patwárí shall be appointed to each circle, whether the maháls in such circle are assessed to revenue or not.[a]

Nomination and appointment of patwáris to fill vacancies.

25. Whenever a circle is without a patwárí, the proprietors of such circle, or their representatives in interest, shall, in accordance with local custom, nominate a person to be such patwárí, and he shall be appointed by the Collector of the district, or Assistant Collector.

Which nominee to be appointed in case of disagreement.

26. In case of disagreement as to the nominee, the Collector or Assistant Collector shall ascertain the local custom, if any, and shall appoint the person nominated in accordance therewith.

Where no such custom can be ascertained, the Collector or Assistant Collector shall appoint the nominee of those proprietors who represent the largest amount of annual value in the circle, or of their representatives in interest.

If a mahál is held under direct management, or if the proprietor of a mahál be under the charge of the Court of Wards, the Collector of the district or Assistant Collector shall be held to be the proprietor for the purpose of nominating a patwárí under this section.

Appointment of patwárí on failure of person entitled to nominate.

27. If the persons in whom the nomination is vested neglect to nominate a successor to the patwárí within fifteen days from the occurrence of the vacancy, the Collector of the district or Assistant Collector shall call on them by notice to make the nomination, and, if they fail to do so within fifteen days from the receipt of notice, the Collector of the district or Assistant Collector shall make the appointment.

Procedure in case of nomination of unfit person.

28. If the person or persons in whom the nomination is vested nominate a man not qualified to perform the duties of a patwárí, or in the nomination neglect to follow the local custom, the Collector of the district or Assistant Collector shall refuse to appoint the nominee; and if no fit person be nominated within fifteen days from the date of the notification of such refusal, he shall himself appoint a person to the vacant office:

Preference to member of patwárí's family.

Provided that the Collector of the district or Assistant Collector, in making the appointment under this and the last preceding section, shall always give preference to any member of the late patwárí's family, qualified to perform the duties of the office.

Payment of patwáris.

29. A rate may be imposed by order of the Collector of the district on the annual value, or on the cultivated area, of all the maháls composing the circle of each patwárí, or partly in the one way, and partly in the other, for defraying the salary of such patwárí, and any charges incurred on account of

[a] Rules under sections 24 to 32, *North Western Provinces Gazette*, 3rd April, 1875, pp 454 460. *Ibid*, 28th May, 1877, p 483.

any additional establishment required for the proper supervision, maintenance and correction of the patwárí's records.

Fixing amount of rate.

30. The amount of the rate to be imposed under section twenty-nine in any district or sub-division of a district, shall be determined by the Board under the orders of the Local Government:

Provided that such rate shall not exceed three per cent. on the annual value of the rated mahál, and that the amount to be imposed on each mahál shall be fixed in the temporarily settled districts for the term of settlement, and in permanently settled districts for thirty years, or such shorter period as the Local Government may direct.

Collection of rate.

31. The rate shall be collected with the revenue, and shall, in case of default, be recoverable by the same process as arrears of revenue.

Salaries of patwárís.

32. The salaries of the patwárís shall from time to time be fixed by the Board under the orders of the Local Government.

Appointment of kánúngos and filling vacancies among them.

33. One or more kánúngos may be appointed in each tahsíl for the proper supervision, maintenance and correction of the patwárí's records.

In case of a vacancy in the office of a kánúngo, preference shall be given to some duly qualified member of a family in which the office of kánúngo of the tahsíl or any part thereof is hereditary.

If no such qualified member can be found, then one of the patwárís of the tahsíl shall, if duly qualified, be appointed to the vacancy, and failing any person duly qualified among them, some other fit and competent person shall be appointed thereto.

Amount of kánúngos' salaries.

34. The salaries of the kánúngos shall from time to time be fixed by the Local Government.

Kánúngos and patwárís to be public servants, and their records public records.

35. Every kánúngo and patwárí, and every person appointed temporarily to discharge the duties of any such officer, shall be deemed to be a public servant within the meaning of the Indian Penal Code,

and all official records and papers kept by any such officer shall be held to be public records and the property of Government.

CHAPTER III.

SETTLEMENT.

Notification as to settlement.

36. Whenever the Local Government thinks that any district or other local area liable to be brought under settlement should be so brought, it shall publish a notification specifying such area,

Notification as to record-of-rights.

and if it thinks that a record-of-rights in land, whether permanently settled, temporarily settled or revenue-free, should be prepared for any district or local area, it shall publish a notification to that effect.

Settlement to

37. Every local area shall be held to be under settlement from the date of

any notification published under section thirty-six and relating thereto until the issue of another notification declaring settlement-operations to be closed therein. be deemed in progress until closing notified.

Every district or other local area under settlement at the time of the passing of this Act, shall be held to be under settlement within the meaning of this section without the issue of the notifications prescribed by section thirty-six. Settlements now in progress brought under operation of Act.

38. The Local Government may from time to time appoint an officer to be in charge of the settlement of one or more districts, or part of a district, and as many Assistant-settlement-officers as to it may seem fit; and such officers shall exercise the powers conferred upon them by this Act so long as such district, part of a district or districts, is or are under settlement. Appointment and powers of Settlement-officers.

39. The Local Government shall from time to time, with the previous sanction of the Governor General in Council, frame and issue rules regarding the mode in which the revenue-demand is to be assessed.[a] Local Government to issue rules as to mode of assessment.

40. When any district, or part of a district, is under settlement, the Settlement-officer shall have power to call upon all proprietors, by proclamation to be stuck up in some conspicuous place in each village, to erect within fifteen days such boundary-marks as he may think necessary to define the limits of their villages, mahâls or fields; and in default of their compliance within the time specified in the notice, he may cause such boundary-marks to be erected, and he shall recover the cost of the erection from the proprietors as if it were an arrear of revenue. Powers of Settlement-officers as to erection of boundary-marks and decision of disputes.

In case of dispute concerning any boundary-marks, the Settlement-officer shall decide such dispute on the basis of possession, or may refer it to arbitration, for decision on the merits as provided for in section two hundred and twenty to section two hundred and thirty-one (both inclusive).

41. All Settlement-officers and all officers in charge of a survey made in connection with the revenue, and their assistants, servants, agents and workmen, may do all acts necessary for any purpose connected with the settlement or survey, as the case may be. Power of settlement and survey-officers to do necessary acts.

42. The Settlement-officer may order all persons whose presence is in his opinion necessary for any of the purposes of this chapter to attend at any specified time and place, and to produce any written document in their possession or power; and all such persons shall be legally bound to obey such order. Power to require attendance of persons concerned, and production of documents.

43. The settlement shall be made with the proprietor of the land; or, if the proprietor have transferred possession of his land to a mortgagee or conditional vendee, then with such mortgagee or vendee. With whom settlement to be made.

[a] Rules for guidance of Settlement-officers, *North-Western Provinces Gazette*, 9th October, 1875, pp. 1426—1440.

Settlement of mahál in possession of lunatic or minor.

If, at the time of settlement, a mahál or any share thereof be in the possession of a lunatic, minor, or other person incapable of making a contract, the settlement shall be made with his guardian or manager on his behalf.

Power to make joint settlement with several proprietors, or their elected representatives.

44. When several persons hold a mahál, the Settlement-officer shall have power to make a joint settlement with all such persons, or with their representatives elected according to the custom of the mahál.

Framing and reporting general proposals of assessment. Detailed assessment and declaration thereof to persons concerned.

45. Whenever the Settlement-officer frames general proposals of assessment in accordance with the rules made under section two hundred and fifty-seven, he shall report them through the Commissioner of the Division to the Board, and after receipt of the orders of the Board thereon, and subject to such orders, he shall ascertain the amount of the assessment proper for each mahál, and declare the same to the person with whom the settlement of such mahál is to be made.

Such declaration shall be made on a date to be notified by proclamation at the tahsíl in which such mahál is situate.

Effect of agreement to assessment proposed.

46. If the persons with whom the settlement is to be made agree to the assessment so proposed, they and those (if any) whom they represent in interest shall become liable from the date of such agreement, or from such subsequent date as the Board directs, to pay such assessment,

Distribution of assessment.

and in mahálsin which the land, or part of the land, is held in severalty, the Settlement-officer shall distribute such assessment on the lands so held.

Enforcement of custom as to re-distribution of land and adjustment of revenue of shares.

47. In any mahál where, by the established custom, the land or the amount of revenue payable by each sharer is subject to periodical re-distribution or re-adjustment, the Settlement-officer may, on application of the co-sharers, enforce such re-distribution or re-adjustment according to the established custom of the mahál.

Exclusion of person declining, or failing to accept, settlement.

48. If the person to be settled with refuse to accept the assessment offered by the Settlement-officer, or fail to accept such assessment within thirty days from the date of the declaration by the Settlement-officer under section forty-five, the Settlement-officer shall report the case through the Commissioner of the Division to the Board, and the Board may direct that the person so refusing or failing be excluded from the settlement for such term not exceeding fifteen years from the date of such direction, as the Board shall fix. And the Settlement-officer or the Collector of the district may, with the previous sanction of the Board, either farm the mahál or hold it under direct management during such term or any part thereof.

Allowance to

In such case, the person so excluded shall be entitled (subject to the orders

of the Board) to an allowance out of the profits of the mahál of not less than five or more than fifteen per cent. on the proposed assessment. person excluded.

49. If, in a pattidárí or imperfect pattidárí mahál, some of the co-sharers refuse or fail within thirty days from the date of the declaration by the Settlement-officer under section forty-five to accept the proposed assessment, the shares of the persons so refusing or failing shall be dealt with under the provisions of section forty-eight, and they shall receive an allowance as laid down in that section in proportion to their respective shares in the mahál: Procedure in case of some of several proprietors refusing assessment.

Provided that the farm of such shares shall be offered in the first instance to those proprietors who have accepted the proposed terms. Farm of shares of proprietors refusing.

50. Any proprietor excluded from settlement under section forty-eight or forty-nine shall be entitled to hold his sír-land as an ex-proprietary tenant, and the rent to be paid by him for such land during such exclusion shall be fixed by the Settlement-officer accordingly. Adjustment of rent of the sír-lands of proprietors of estates farmed under section 48 or 49.

51. The aggregate amount of any allowance assigned under section forty-eight or section forty-nine to any proprietor excluded from settlement and of the difference between the rent fixed under section fifty and the rent which he would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. on the assessment proposed by the Settlement-officer. Amount of allowance to excluded proprietor, and of difference between rent fixed and rent payable by him if he were tenant-at-will.

52. On the expiration of the term fixed under section forty-eight, the settlement shall be offered by the Collector of the district to the person then entitled to be settled with in respect of such mahál or portion, at such assessment for the remainder of the term of settlement of the district as the Board may direct. Offer of settlement to excluded proprietor on expiry of term of exclusion.

And if such person refuse to accept the offer, the Collector of the district shall report such refusal through the Commissioner of the Division to the Board, and such person may be excluded from settlement for such period not exceeding the term of the settlement of the district as the Board may direct, and shall then receive the allowance to which he would be entitled if sections forty-eight and forty-nine applied to his case. And the rent to be paid by him as an ex-proprietary tenant for his sír-land shall be fixed by the Collector of the district or Assistant Collector in accordance with the North-Western Provinces Rent Act, 1873.[a] Procedure on refusal.

53. Whenever several persons possess separate heritable and transferable proprietary interests in any mahál, such interests being of different kinds, the Settlement-officer may, under the rules for the time being in force, determine Power to direct which of several parties having separate and different

(*a*) which of such persons shall be admitted to engage for the payment of

[a] See *supra*, p. 254.

interests shall be admitted to settlement;

the revenue, due provision being made for securing the rights of the others, and

and to prescribe distribution of profits.

(*b*) the manner and proportion in which the nett profits of the mahál shall be allotted to the several persons possessing separate interests as aforesaid for the term of the settlement.

Power to make sub-settlement with inferior proprietor in behalf of superior proprietor of mahál coming under section 53.

54. If in any mahál coming under the provisions of section fifty-three, the separate properties bear to each other the relation of superior and inferior, and the settlement be made with the party possessing the superior right, the Settlement-officer may make, on behalf of the superior proprietor, a sub-settlement with the inferior proprietor, by which such inferior shall be bound to pay to the superior an amount equal to the Government demand in respect of the mahál, together with the share of the profits thereof allotted to the superior proprietor under section fifty-three:

Exclusion of inferior proprietor from sub-settlement in case of refusal of terms.

Provided that, if the inferior proprietor refuse to agree to the terms of such sub-settlement, the mahál shall be made over to the superior proprietor for the term of settlement.

Allowance.

And in such case the inferior proprietor shall hold as an ex-proprietary tenant the land (if any) cultivated by him at the date of such refusal, and the superior proprietor shall pay him such annual allowance as, when added to the difference between the rent fixed for such land and the rent which the inferior proprietor would be liable to pay therefor if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. of the profits allotted to him under section fifty-three.

Assessment on inferior proprietor when settlement made with him.

55. If the settlement of a mahál be made with the inferior proprietor, the amount to be paid by him shall be fixed by the Settlement-officer at such a sum as may be equal to the Government demand in respect of such mahál, together with the share of the profits allowed to the superior proprietor under section fifty-three; and in this case the share of the superior proprietor shall be realized as revenue, and paid to him from the Government Treasury.

Power to make arrangements for the benefit of persons possessing rights which do not entitle them to settlement.

56. If in any mahál there exist persons possessing proprietary rights therein which are not of such a nature as to entitle their possessors to settlement, the Settlement-officer may make such arrangements as shall secure such persons in possession of their existing rights, or of an equivalent thereto.

This may be done

(*a*) by the formation of a sub-settlement on behalf of the proprietors with such persons for any lands actually in their possession, or,

(*b*) in mahálsheld as joint undivided property and where the said rights are rights to receive from the tenants any money-payment or portion of the agricultural produce, by assigning, in lieu thereof, the proprietary right in a

certain portion of the mahál, the profits of which are equivalent in the opinion of the Settlement-officer to the said payment or portion, or

(*c*) in such other way as shall maintain the persons referred to in the first clause of this section in the enjoyment of, or of an equivalent to, their existing rights.

Separate settlement of waste-land in excess.

57. When the waste-land belonging to, and included at the previous settlement within the boundaries of, any mahál assessed to the payment of revenue is so extensive as, in the opinion of the Settlement-officer, confirmed by the Board, to exceed the requirements of the owner of such mahál with reference to pastoral or agricultural purposes, such officer may make a separate settlement of the waste-land which he considers to be so in excess, and shall offer such waste-land to the owner of the mahál to which it belongs, at such assessment and for such term, not exceeding the period of settlement of the mahál, as the Board may order.

If the owner of the mahál accepts such offer, the Settlement-officer shall make the settlement of such waste-land accordingly, and on the expiration of the term of such settlement, a farther settlement of such waste-land shall be offered, on such terms as the Board directs, to the person entitled to be settled with in respect thereof.

Allowance to owner of mahál refusing offer of settlement.

If the owner of such mahál refuses such offer, the Settlement-officer shall mark off the quantity so in excess, and declare it to be a separate mahál and at the disposal of Government: Provided that there shall be allowed to the owner of the mahál to which the waste-land originally belonged such annual sum as the Board may direct, being not less than five and not more than ten per cent. on the nett revenue realized by Government from such waste-land.

Procedure as to waste-land not included in any mahál at previous settlements.

58. Waste-land which has neither been judicially declared to be part of any mahál, nor included within the boundaries of any mahál at any previous settlement, shall be marked off by the Settlement-officer,

and he shall record a proceeding declaring such land to be the property of Government, and cause a proclamation to that effect to be stuck up in the District revenue-Court and in the office of the tahsíl in which such land is situated, and shall call on all persons having any claims on such land to make the same within three months from the date of the proclamation.

Proclamation to be held an advertisement under Act XXIII of 1863.

59. Such proclamation shall be held to be an advertisement of the disposal of such land within the meaning of Act No. XXIII of 1863[a] *(to provide for the adjudication of claims to waste-lands)*, section one, and any person having claims to such land must proceed according to the provisions of that Act.

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[a] See General Acts, vol. I, p. 640.

Procedure as to waste-land unclaimed or adjudged to belong to Government.

60. If no claim is made to the proprietary right of such waste-land, or if such waste-land is decided to be the property of Government, but the proprietor of the adjoining mahál proves that he has theretofore enjoyed the use of such land for pastoral or agricultural purposés, the Settlement-officer may assign to such mahál so much of such waste-land as he may consider requisite for such purposes; and he shall mark off the remainder and declare it to be the property of Government.

Settlement of waste-land adjudged to belong to claimant.

61. If the claimant obtain a decree under the provisions of the said Act No. XXIII of 1863 for the whole or part of such waste-land, the Settlement-officer may deal with the land to which a title is so established under the provisions of section fifty-seven.

RECORD-OF-RIGHTS.

Contents of record.

62. The Settlement-officer shall frame for each mahál a record containing a list of

(*a*) all the co-sharers,

(*b*) all other persons occupying any portion of the land therein, or who are in possession of any heritable or transferable interest in such land, or receiving rent in respect thereof,

(*c*) the nature and extent of the interest held therein by each of such co-sharers and other persons, and

(*d*) all persons holding land free of rent, or revenue-free.

Record to include particulars as to tenants.

63. The record shall also specify the persons (if any) holding land at a rent fixed by grant or by contract, or on condition of service or otherwise, and all other tenants in the mahál, the name and caste of each, the area of their holdings, and all conditions of their tenure.

Settlement of disputes as to entries to be made in record.

64. All entries in the record made under sections sixty-two and sixty-three shall be founded on the basis of actual possession, and all disputes regarding such entries, whether taken up by the Settlement-officer of his own motion or upon the complaint of the party concerned, shall be investigated and decided by him on that basis. And all persons not in possession, but claiming the right to be so, shall be referred by him to the proper Court.

Arrangements of co-sharers to be recorded.

65. The Settlement-officer shall also record the arrangement made by himself or agreed to by the co-sharers,

(*a*) for the distribution of the profits derived from sources common to the proprietary body,

(*b*) for fixing the share which each co-sharer is to contribute of the Government-revenue and of the cesses levied under any law for the time being in force, and of the village-expenses,

(*c*) as to the manner in which lambardárs or co-sharers are to collect from the cultivators,

(*d*) the instalments of rent and the respective dates fixed for their payment, and

(*e*) any other matters which he may be directed to record under rules framed under section two hundred and fifty-seven.

Cesses to be consolidated with rent.

66. All cesses which are payable by tenants on account of the occupation of land assessed to revenue and taken into account in such assessment, or which, in the case of land not assessed to revenue, would have been taken into such account had the land been assessed, or in lieu of which proprietary rights have been assigned under section fifty-six, clause (*b*), shall be consolidated with the rent payable by such tenants.

Cesses to be recorded.

A list of all other cesses levied in accordance with village-custom shall, if generally or specially sanctioned by the Local Government, be recorded by the Settlement-officer, and no cesses not so recorded shall be enforced in any civil or revenue Court.

Conditions on collection of cesses.

The Local Government may from time to time impose on the collection of any cesses so sanctioned, such conditions as to conservancy, police or other establishments connected with the village, bázár or fair in or on account of which the cesses are levied, as it thinks fit.

Determination of disputes arising under sections 65 and 66.

67. If it appear to a Settlement-officer that there exist in any mahál under settlement any disputes relative to any of the matters which he is bound to record under section sixty-five or section sixty-six, he may of his own motion, and without complaint being made, investigate and determine such disputes in accordance with the existing village-custom, and frame the record accordingly.

Particulars to be stated in list of tenants.

68. In framing the list of tenants mentioned in section sixty-three, the Settlement-officer shall state as to each tenant the following particulars :—

(*a*) Whether, under the provisions contained in the North-Western Provinces Rent Act, he is a tenant holding at fixed rates, or an ex-proprietary tenant, or an occupancy-tenant, or a tenant without a right of occupancy :

(*b*) The rent which the landholder and the tenant then admit to be payable by the latter :

(*c*) If he be a tenant without a right of occupancy, the number of years during which he has held the land then in his possession :

(*d*) Any other condition of the tenure, whether contained in a written lease or otherwise.

Determination of class of tenants.

69. Notwithstanding anything contained in section sixty-four, in case of any dispute respecting the class or tenure of any tenant, the Settlement-officer shall decide according to the principles laid down in sections five, six, seven and eight of the North-Western Provinces Rent Act, 1873.[a]

[a] See *supra*, p. 254.

Determination of rent of tenants.

70. In case of any dispute regarding the rent payable by any tenant, the Settlement-officer shall decide according to the principles hereinafter laid down.

Enhancement and determination of rent of ex-proprietary tenants.

71. If the proprietor apply to the Settlement-officer to enhance or determine the rent of an ex-proprietary tenant, the Settlement-officer shall fix the rent of such tenant at a rate which shall be four annas in the rupee below the prevailing rate for land of a similar quality with similar advantages held by tenants-at-will in the same circle or tahsíl.

Determination of rent of occupancy-tenants by Settlement-officer.

72. If a landholder apply to enhance the rent previously paid by any of his occupancy-tenants,

or, if an occupancy-tenant apply for an abatement of the rent previously paid by him,

or, if a dispute exists as to the rent to be paid by an occupancy-tenant,

the Settlement-officer may fix the rent to be paid by such tenant either by reference to the standard of the rent-rate sanctioned by the Board for purposes of assessment for similar land, with similar advantages, in the circle or tahsíl in which the holding of such tenant is situate, or by reference to the customary rate of rent paid by tenants of the same class for similar land, with similar advantages, in the same circle or tahsíl.

Power to commute rent in kind, &c., to fixed money-rents.

73. In all cases in which rents have heretofore been paid in kind, or on the estimated value of a portion of the crop, or by rates varying with the crop, or partly in one of such ways and partly in another or others of such ways, application to commute such rent to a fixed money-rent may be made to the Settlement-officer either by the landholder or by any ex-proprietary tenant or occupancy-tenant.

Procedure on receiving application to commute.

74. On receipt of such application the Settlement-officer shall deal with the case as if it were an application under section seventy-one or seventy-two, and shall determine the sum to be paid in commutation in accordance with the provisions of those sections.

Joinder of tenants in applications relating to rent.

75. Whenever an application for enhancement or abatement or commutation of rent, against or by any number of tenants, is brought before a Settlement-officer, such tenants may be sued or may sue collectively: and it shall be no ground for dismissing or refusing to hear the application, that such tenants are wrongly joined as plaintiffs or defendants, provided all such tenants cultivate in the same mahál;

Proviso.

but no order shall be passed in such case in which enhancement, abatement or commutation of rent is claimed, unless the officer making such order is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them.

Order in such cases.

76. Every order passed in any such case shall specify the extent to which each of the tenants named in the order shall be affected thereby.

Rent from what date payable.

77. The rent fixed by order of the Settlement-officer shall be payable from the first day of July next following the date of the order of the Settlement-officer, and (subject to the provisions of sections sixteen and seventeen of the North-Western Provinces Rent Act, 1873)[a] shall not be liable to enhancement or abatement for ten years from such first day of July.

Bar to enhancement or abatement.

Powers of Local Government as to commutation-suits.

78. The Local Government may from time to time, by notification in the official Gazette,

(*a*) declare the provisions of section seventy-three applicable to any district or portion of a district not under settlement;

(*b*) declare what officers are empowered to hear and decide applications under section seventy-three in such district or portion of a district, and lay down rules for their guidance;

(*c*) withdraw any notification previously published under this section.

Resumption of rent-free grants.

79. And whereas all grants (whether in writing or otherwise) for holding land exempt from the payment of rent which have been made since the first day of December 1790, by any authority other than that of the Governor General in Council, were declared by Bengal Regulation XIX of 1793, section ten, to be null and void, and like provisions have been by divers Regulations at different times applied to the several parts of the territories to which this Act extends; and the said Regulation XIX of 1793 also provided that no length of possession should be considered to give validity to any such grant, either with regard to the property in the soil or the rents of it, it is hereby enacted as follows:—

Disposal of applications to resume such grants.

Applications by the proprietors to resume such grants or to assess rent on the land shall, when the district in which the land is situate is a district under settlement, be made to the Settlement-officer, who may (subject to this Act and to any rules made hereunder and for the time being in force) make such order thereon as he deems just.

Saving of certain lands held rent-free.

80. Nothing in section seventy-nine applies to either of the following cases,

(*a*) where land is, previously to the passing of this Act, held rent-free under a judicial decision,

(*b*) where, previously to the passing of this Act, land held rent-free has been purchased for a valuable consideration and its resumption has been barred by Act No. X of 1859, section twenty-eight, or by Act IX of 1871,[b] second schedule, No. 130.

Validity of grants which grantor has

81. Grants of land held under a written instrument (whether executed before or after the passing of this Act) by which the grantor expressly agrees

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[a] See *supra*, p. 254.

[b] The Indian Limitation Act. See General Acts, vol. II, p. 1355.

expressly agreed not to resume.

that the grant shall not be resumed, shall be held valid as against him (but not as against his representatives after his death) during the continuance of the settlement of the district in which the land is situate, which was current at the date of the grant.

When rent-free tenure confers proprietary right.

82. Where any land has been for fifty years or upwards, and still is, held rent-free and by at least two successors to the original grantee, such holding shall be deemed to confer on the holder a proprietary right.

Nothing in the Indian Limitation Act, 1871, shall bar the right to make an application under this Act to assess to rent land held rent-free.

Saving of liability for Government revenue.

83. No length of rent-free occupancy of any land, nor any grant of land made by the proprietor, shall release such land from its liability to be charged with the payment of Government revenue.

Sections 71 and 72 to apply.

84. In assessing rent under section seventy-nine, the Settlement-officer shall be guided by the provisions of sections seventy-one and seventy-two, so far as they apply.

Form of register of revenue-free tenures.

85. The Settlement-officer shall record all revenue-free tenures in such form of register as the Board from time to time prescribes.

Resumption in certain cases of land held revenue-free.

86. The Settlement-officer shall enquire into the case of all lands released, conditionally or for a term, from the payment of revenue, and shall assess such lands if it appear to him that the conditions have been transgressed, or the term has expired.

Title to hold free to be proved.

87. Any person claiming land free of revenue not recorded as revenue-free, shall be bound to prove his title to hold such land free of revenue.

Report to Government where title proved.

88. If he prove his title to the satisfaction of the Settlement-officer, the case shall be reported to the Local Government whose orders thereon shall be final.

Assessment and settlement on failure of proof.

89. If the title be not so proved, the Settlement-officer shall proceed to assess the land, and to make the settlement of it with the person in actual possession as proprietor.

Form and attestation of record-of-rights.

90. The Board shall from time to time prescribe the form in which the record to be made under the provisions of this chapter shall be drawn up, and the manner in which it shall be attested.

Presumption as to entries.

91. All entries in the record so made and attested shall be presumed to be true until the contrary is proved.

Confirmation of settlement.

92. No settlement shall be considered final until it has been confirmed by the Local Government.

Period for which settlement is to be made.

The Local Government shall at some time before confirming the settlement fix the period for which the settlement is to be made.

Such period shall be fixed with reference to the agricultural year.

The assessment may be revised, if the Local Government so directs, at any time before it is confirmed, and in such case the revised assessment shall be proposed to the proprietors, and the provisions of sections forty-three to ninety-one (both inclusive) shall apply. Revision of assessment before confirmation.

93. At any time during the currency of a settlement, the Local Government may invest any officer with all or any of the powers of an officer in charge of a settlement under this Act within such limits, and with such restrictions, and for such period, as it thinks fit; Power to invest officer with Settlement-officer's powers.

but not so as to enable him to enhance the total amount of revenue payable on account of any mahál except in respect of land added thereto or becoming liable to payment of revenue since the confirmation of the settlement.

No officer so invested shall alter the classification of tenants made under this Act except on the application of a party concerned.

CHAPTER IV.

Registration and Maintenance of Records.[a]

94. The Collector of the district shall keep and maintain the record-of-rights; Collector to maintain record-of-rights,

and he shall from time to time cause to be registered all changes that may take place, and anything that may affect any of the rights or interests recorded; and register changes,

and shall correct any errors which the parties interested admit to have been made in the record. and correct errors.

95. The Board shall order such registers to be kept up as may be necessary for the purposes of the last preceding section; and no such changes shall be recorded without the order of the Collector of the district or Assistant Collector. Power to order what registers shall be kept. Changes to be duly authorized.

96. The Local Government may prescribe proper fees for mutations in the registers: Provided that no fee for a single mutation shall exceed one hundred rupees. Power to prescribe fees for mutations.

Such fees shall be levied from the person in whose favour the mutation is made and shall be expended in such manner as the Local Government thinks fit. Levy of fees. Appropriation.

97. All persons succeeding to any proprietary right in a mahál, or the profits thereof, whether by inheritance, purchase, gift or other form of transfer, shall notify the same immediately after it has taken place to the tahsíldár of the tahsíl in which the mahál is situated, and the tahsíldár shall report such notice to the Collector of the district or the Assistant Collector. Successions to proprietary rights to be notified.

98. The Collector of the district or Assistant Collector, on receiving such report, shall make such enquiry as appears necessary to ascertain the truth Procedure on notification.

[a] See *North-Western Provinces Gazette*, 3rd February, 1877, p. 107.

of the alleged succession to, or transfer of, the property, and if the succession or transfer appears to have taken place, he shall record the same in the register:

Saving of rights of other persons interested.

Provided that no such entry shall be held to affect the rights of any other person who may claim and establish in any civil or revenue Court any interest in the land to which the entry has reference.

Notification in case of minority or other disqualification.

99. If the person so succeeding is a minor or otherwise disqualified, the guardian or other person who has charge of his property shall make the notification required by section ninety-seven.

Fine for neglect to notify.

100. Any person neglecting to make the notification required by sections ninety-seven and ninety-nine within three months from the date of the transfer having taken place shall be liable, at the discretion of the Collector of the district or Assistant Collector, to a fine not exceeding five times the amount of the fee which would otherwise have been payable under section ninety-six.

Power to put one party in possession in certain cases of dispute.

101. If in the course of inquiry made under section ninety-eight a dispute regarding the possession of the property arises, and the Collector of the district or Assistant Collector is unable to satisfy himself as to which party is in possession, he shall ascertain by summary enquiry who is the person best entitled to the property, and shall put such person in possession, and make the necessary entry in the record accordingly, subject to any order that may be subsequently passed by the civil Court.

Registry of transfers of non-proprietary interests in land.

102. The transfers of all interests in land, other than those referred to in section ninety-seven, shall be recorded by the kánúngo and patwárí in such manner as the Board from time to time directs;

Enquiry in disputed cases.

and all disputed cases shall be reported to the Collector of the district or Assistant Collector, who shall make such enquiry as may be necessary to ascertain the truth, and cause the record to be amended accordingly.

Annual enquiry as to revenue-free grants.

103. The Collector of the district or Assistant Collector shall enquire annually into the cases of all land released conditionally or for a term from the payment of revenue.

If the condition be broken, he shall report the case through the Commissioner of the Division to the Board for orders,

and if the term has expired, or (where the grant is for the life of the grantee) if the grantee has died, he shall assess the land and report his proceedings through the Commissioner of the Division to the Board for sanction.[a]

Assessment of land added by alluvion.

104. All land added by alluvion to a mahál is liable to assessment. Such land may be assessed and settled under rules to be framed under section two hundred and fifty-seven.

Collector and Assistant Collector to have

105. For the purposes of sections one hundred and three and one hundred

[a] Assessment of lands previously released from payment of revenue, *North-Western Provinces Gazette*, 27th March, 1875, p. 424.

and four, the Collector of the district and Assistant Collector shall each have the powers of an officer in charge of a settlement. powers of officer in charge of settlement.

106. All records kept under this Act shall be open to public inspection at such hours and on such conditions as to fees or otherwise as the Local Government may from time to time prescribe.[a] Inspection of records.

PARTITION AND UNION OF MAHÁLS.

107. Partition is either perfect or imperfect. Partitions.

'Perfect partition' means the division of a mahál into two or more maháls. 'Perfect partition.'

'Imperfect partition' means the division of any property into two or more properties, jointly responsible for the revenue assessed on the whole. 'Imperfect partition.'

108. Any recorded co-sharer in a mahál, and any person in whose favour a decree has been passed by any civil Court, awarding to him the proprietary right in a portion of a mahál, whether such portion consists of a fractional share in the whole or a part of the mahál, or of specific lands, is entitled to claim perfect partition of his share. Persons entitled to perfect partition.

Any two or more recorded co-sharers may claim that their shares be divided from the other shares by a perfect partition, and be held by them as a single mahál.

109. Applications for perfect partition are to be made in writing to the Collector of the district or the Assistant Collector in charge of the sub-division of the district in which the mahál is situated; Applications for perfect partition.

and shall be accompanied by a certified copy of the record, showing the share held by the applicant in the mahál:

Provided that, if the mahál be situated in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Collectors of those districts as the Board may direct. Provision as to estates situated in more than one district;

110. If the mahál is situated in two or more sub-divisions of a district, the partition shall be made by such one of the Assistant Collectors respectively in charge of such sub-divisions as the Collector of the district may direct. and as to estates in more than one sub-division.

111. The Collector of the district or Assistant Collector, on receiving an application for partition shall, if the application be in order and not open to objection on the face of it, publish a notification of the same at his office, and at some conspicuous place on the mahál to which the application relates, Notification of application.

and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection, either in person or by a duly authorized agent, on a day to be specified in the notice, Notice to co-sharers not joining.

[a] See *North-Western Provinces Gazette*, 28th November, 1874, pp 1957, 1958: *ibid*, 2nd October, 1875, p. 1388 (Rule X).

not being less than thirty or more than sixty days from the date on which such notice was issued.

Notification when alone sufficient.

Where, from any cause, notice cannot be personally served on any co-sharer, the notification shall be deemed sufficient notice under this section.

Power to refuse partition when objection admitted.

112. If, on or before the day specified, any objection is made to the partition by any co-sharer in possession, and the Collector of the district or Assistant Collector, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Procedure if question of title be raised.

113. If the objection raises any question of title, or of proprietary right, which has not been already determined by a Court of competent jurisdiction, the Collector of the district or Assistant Collector may either decline to grant the application until the question in dispute has been determined by a competent Court, or he may proceed to inquire into the merits of the objection.

In the latter case the Collector of the district or Assistant Collector, after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests of the party or parties applying for the partition, and any other party or parties who may be affected thereby.

Procedure in such cases.

The procedure to be observed by the Collector of the district or Assistant Collector in trying such cases shall be that laid down in the Code of Civil Procedure for the trial of original suits, and he may with the consent of the parties refer any question arising in such case to arbitration, and the provisions of chapter VI (relative to arbitrators) of the same Code shall apply to such references.*

Reference to arbitration.

Collector's decision equivalent to decision of civil Court.

Appeal thereupon.

114. All orders and decisions passed by the Collector of the district or Assistant Collector under the last preceding section, for declaring the rights of parties, shall be held to be decisions of a Court of Civil Judicature of first instance, and shall be open to appeal to the district or High Court, under the rules applicable to regular appeals to those Courts.

Appellate Court may stay partition.

Upon such appeal being made, the district or High Court, as the case may be, may issue a precept to the Collector of the district or Assistant Collector, desiring him to stay the partition pending the decision of the appeal.

Special appeal to High Court.

115. From every decision passed under section one hundred and fourteen by a district Court, a special appeal shall lie to the High Court, under the rules for the time being in force relating to special appeals to that Court.

Option to parties to make partition themselves or to appoint arbitrators.

116. When it has been decided to make a partition under this chapter, the Collector of the district or Assistant Collector may give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; or he shall make the partition himself or cause it to be made by any Assistant Collector subordinate to him.

If arbitrators are appointed, the provisions of sections two hundred and twenty to two hundred and thirty-one, both inclusive, shall apply.

Power to enter on land for purposes of partition.

117. In making partitions, the Collector of the district or Assistant Collector, and any person appointed by him, shall have the same powers to enter on the land under partition, for marking out the boundaries, surveying the mahál, and other purposes, as have been conferred on Settlement-officers under chapter III.

Partition of lands held only in severalty.

118. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate mahál, and shall be separately assessed to the Government revenue.

Partition of lands some of which are held in common.

119. Where some of the lands are held in common, the Collector of the district or Assistant Collector shall allot to the applicant for partition his share of such lands in accordance with village-custom, if any such exist.

If no such custom exist, the Collector of the district or Assistant Collector shall make such division as may secure to the applicant his fair portion of the common lands.

Formation of separate mahálsfrom shares allotted in partition.

120. The portion of the common lands falling by such partition to the share of the applicant shall be added to the land held by him in severalty, and the mahálsthus formed shall be assessed and declared separate mahálsthus formed shall be assessed and declared separate mahals.

Transfers to be effectuated in making partition.

121. In making partitions under sections one hundred and eighteen, one hundred and nineteen and one hundred and twenty, the Collector or Assistant Collector shall give effect to any transfer of lands held in severalty, forming part of the mahál, agreed to by the parties, and made previous to the declaration of the partition.

Partition where all lands held in common.

122. Where all the lands are held in common, the Collector of the district or Assistant Collector shall make such a partition as may secure to the applicant his fair share of the mahál.

Mahálsto be compact; partition not disallowed for incompactness.

123. In all cases each mahál shall be made as compact as possible: Provided that, except with the sanction of the Board, no partition be disallowed solely on the ground of incompactness.

Rule when dwelling-house of one sharer is included in mahál assigned to another.

124. If in making the partition it be necessary to include in the mahál assigned to one sharer, the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose portion it may fall.

The limits of such land, and the rent to be paid for it, shall be fixed by the Collector of the district or Assistant Collector.

Rule as to sír-land of one sharer being

125. No sír-land belonging to any co-sharer shall be included in the mahál assigned on partition to another co-sharer, unless with the consent of

included in mahál assigned to another.

the co-sharer who cultivates it, or unless the partition cannot otherwise be conveniently carried out.

If such land be so included, and after partition such co-sharer continue to cultivate it, he shall be an occupancy-tenant of such land, and his rent shall be fixed by order of the Collector of the district or of the Assistant Collector.

Rule as to tanks, wells, water-courses and embankments.

126. Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the mahálś into which the mahál may be divided, the Collector of the district or Assistant Collector shall determine the extent to which the proprietors of each mahál may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works, shall be divided.

Rule as to places of worship and burial-grounds.

127. Places of worship and burial-grounds, held in common previous to the partition of a mahál, shall continue to be so held, unless the parties otherwise agree among themselves.

In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

Determination of revenue payable by each division of a mahál.

128. The amount of revenue to be paid by each portion of the divided mahál shall be determined by the Collector of the district or Assistant Collector; provided that the aggregate revenue of the new mahálś shall not exceed the revenue assessed on the mahál immediately before partition,

Liability of proprietors.

and the proprietors of the new mahálś shall be held liable for the portions of the revenue severally assessed on their mahálś, whether new engagements be taken from them or not.

Power to make rules as to costs.

129. The Board shall make rules for determining the costs of partitions under this Act, and the mode in which such costs are to be apportioned:

Cost of survey.

Provided that the cost of surveying a mahál, when such survey is necessary for the purpose of partition, shall be paid rateably by all the co-sharers of the mahál, according to their shares therein.

Case may be struck off for default as to costs.

130. If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Collector of the district or Assistant Collector, the case may be struck off the file.

Power to stay partition.

And if at any stage of the proceedings there appears to be any reason for stopping the partition, the Collector of the district may of his own motion, or on the report of the Assistant Collector making the partition, stay the partition and order the proceedings to be quashed.

Partitions to be made or confirmed by Collector, and notified to parties.

131. Every partition shall either be made by the Collector of the district, or, if made by an Assistant Collector, be reported to the Collector of the district for his sanction and confirmation;

and on completion of a partition, the Collector of the district shall publish a notification of the fact at his office and at some conspicuous place on each of the new mahâls, or in the village of which they form part;

When to take effect.

and it shall take effect from the first day of July next after the date of such notification.

Appeal to Commissioner from orders of Collector.

132. An appeal against the decision of the Collector of the district making or confirming a partition, shall lie to the Commissioner of the Division within one year from the date on which such partition takes effect.

Power to order new allotment of revenue on proof of fraud or error in first distribution.

133. Where the public revenue is fraudulently or erroneously distributed at the time of the partition, the Local Government may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the public revenue upon the several mahâls into which the mahâl has been divided, on an estimate of the assets of each mahâl at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Making of imperfect partitions.

134. Imperfect partition shall be carried out according to the provisions of the preceding sections, so far as they are applicable:

Consent required.

Provided that no application for imperfect partition shall be entertained unless the consent of all the recorded co-sharers in the property of which partition is sought be first obtained.

Civil Courts barred from entertaining applications for partition.

135. No civil Court shall entertain any suit or application for perfect or imperfect partition.

Union of mahâls originally part of same village.

136. If two or more revenue-paying mahâls have originally formed portion of the same village, the proprietors shall be entitled to have such mahâls united and to hold them as a single mahâl.

Application for such union.

137. Every application for the union of such mahâls shall be made in writing to the Collector of the district or Assistant Collector in charge of the sub-division of the district in which the mahâls are situate.

How to be dealt with.

138. If the Collector of the district or Assistant Collector, as the case may be, see no objection, he shall comply with the application, and cause the necessary entries to be made in the records of his office, reporting the case to the Commissioner of the Division.

Application of chapter to partition or union of revenue-free mahâls.

139. The provisions of this chapter, so far as they are applicable, may be applied by the order of the Collector of the district to the partition or union of mahâls held free of revenue.

MAINTENANCE OF BOUNDARIES.

Power to enter and survey land, and mark boundaries.

140. The Collector of the district, Assistant Collectors and their subordinates, shall have power to enter upon and survey land, and to demarcate the boundaries of maháls, villages or fields.

Obligations of owners as to boundary-marks.

141. All owners of maháls, villages or fields are bound to maintain and keep in repair at their own cost the boundary-marks lawfully erected thereon.

Penalty for erasing, removing or injuring marks.

142. Any person convicted before a Collector of the district or Assistant Collector of wilfully erasing, removing or damaging such boundary-marks, may be ordered by the convicting officer to pay such sum, not exceeding fifty rupees, for each mark so erased, removed or damaged, as may be necessary to defray the expense of restoring the boundary-marks so erased, removed or damaged, and of rewarding the informer through whom the conviction was obtained.

Who to be charged for re-erection and repair when offenders not discoverable.

143. Whenever the person erasing, removing or damaging any such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been so ordered to pay, the mark shall be re-erected or repaired at the charge of the owner or owners of such one or more of the conterminous fields or maháls, as to the Collector of the district or Assistant Collector seems fit.

Powers of Collector as to boundary-disputes and boundary-marks.

144. The Collector of the district or Assistant Collector may decide, on the basis of possession, all disputes concerning boundaries, and may at any time direct the owners of maháls, villages or fields, by written notice served upon them—

(*a*) to cause proper boundary-marks to be erected on such maháls, villages or fields,

(*b*) to repair the boundary-marks lawfully erected on such maháls, villages or fields.

In default of their compliance with such direction within fifteen days from the date of the service of the notice, the Collector of the district or Assistant Collector shall cause such boundary-marks to be erected or repaired, as the case may be, and shall charge the cost of such erections or repairs to the owners of the conterminous villages, fields or maháls, in such proportion as he thinks fit.

Recovery of fees, fines and costs.

145. All fees, fines, costs and other sums ordered to be paid under this chapter shall be recoverable as an arrear of revenue.

CHAPTER V.

COLLECTION OF LAND-REVENUE.

Responsibi-

146. In the case of every mahál the entire mahál and all the proprietors

jointly and severally shall be responsible to Government for the revenue for the time being assessed on the mahál. lity for revenue.

147. The Board may, with the previous sanction of the Local Government, from time to time make rules as to the instalments in which, and the persons, places and times to whom and at which, the revenue payable in respect of any land shall be paid. Board may make rules as to payment of revenue.

Until the issue of such rules, the said revenue shall be paid in the instalments, to the persons, and at the times and places, in which, to whom, and at which it is now paid.[a]

148. Any sum not so paid becomes thereupon an arrear of revenue, and the persons responsible for it become defaulters. Arrear. Defaulters.

No interest shall be demanded on any arrear of land-revenue. Interest not chargeable.

If the settlement has been made with a lambardár on behalf of the proprietary body, both the lambardár and the persons so responsible shall be deemed defaulters. Default where settlement is with lambardár.

149. A statement of account certified by the tahsíldár shall be conclusive evidence of the existence of the arrear, of its amount, and of the person who is the defaulter. Certified account to be evidence as to arrear.

150. An arrear of revenue may be recovered by the following processes :— Process for recovery of arrears.

(*a*) by serving a writ of demand (*dastak*) on any of the defaulters;

(*b*) by arrest and detention of his person;

(*c*) by distress and sale of his moveable property ;

(*d*) by attachment of the share, or pattí, or mahál, in respect of which the arrear is due;

(*e*) by transfer of such share or pattí to a solvent co-sharer in the mahál;

(*f*) by annulment of the settlement of such pattí, or of the whole mahál;

(*g*) by sale of such pattí, or of the whole mahál;

(*h*) by sale of other immoveable property of the defaulter.[b]

151. Writs of demand may be issued on or after the day following that on which the arrear accrues. When writs may issue.

The Board shall from time to time frame rules for the issue of such writs, and fix the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such writs shall be issued.[c] Power to frame rules as to writs.

152. At any time after an arrear becomes due, the defaulter may be arrested and detained in custody for fifteen days, unless the arrear, together with the costs of arrest, is sooner paid. Arrest and detention of defaulter.

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[a] Instalments of revenue, *North-Western Provinces Gazette*, 27th March, 1875, p. 415; 11th November, 1876, pp. 1454—1456: 3rd February, 1877, p. 107. [b, c] Collection of revenue, *ibid.*, 27th March, 1875, pp. 416, 417.

Power of arrest by whom to be exercised.

The Board may, from time to time, declare by what officers or class of officers the powers of arrest conferred by this Act may be exercised.[a]

Distress and sale of his moveable property. Exceptions.

153. The Collector of the district or Assistant Collector may, whether the defaulter has been arrested or not, distrain and sell his moveable property, with the exception of the implements of husbandry and cattle actually employed by him in agriculture, and, in the case of an artizan, of his tools.

Power to attach defaulter's land and take it under direct management.

154. When an arrear of land-revenue has become due, the Collector of the district may, in addition to or instead of any of the other processes before specified, cause the share, or pattí, or mahál, in respect of which the arrear is due, to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Powers and obligations of manager.

155. The Collector of the district, or the agent so appointed, shall be bound by all the engagements which existed between the person or persons who, immediately before the attachment, was or were in possession of the land attached, and the subordinate proprietors or tenants, if any,

and shall be entitled to manage the land attached, and to receive all rents and profits accruing therefrom to the exclusion of such person or persons, until the arrears of land-revenue due therefrom have been satisfied, or until the Collector of the district restores to the management thereof the person or persons whose interest has been attached.

Application of surplus-profits.

156. All surplus-profits of the land attached, beyond the cost of such attachment and management, including the payment of the current revenue, shall be applied in defraying the said arrear ;

Limit to term of attachment.

and no land shall be attached for the same arrears for a longer term than five years from the first day of July next after the attachment; provided that, if the arrear be sooner liquidated, the land shall be released and the surplus-receipts (if any) made over to the proprietor.

Transfer of defaulter's share to co-sharers.

157. When the arrear is due in respect of a share or pattí of a mahál, the Collector of the district may, with the previous sanction of the Board, transfer such share or pattí, for a term not exceeding fifteen years from the first day of July next after the date of the sanction, to any or all of the other co-sharers, on condition of their paying such arrear and on such terms as the Board in each case may think fit.

Liability of co-sharers not affected.

This procedure shall not affect the joint and several liability of the co-sharers of the mahál in which it is enforced.

When report may be made to Board and settlement annulled.

158. When any arrear of land-revenue is due and the Collector of the district is of opinion that the processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to or instead of all or any of such processes, report, through the Commissioner of the Division, the mat-

[a] *North-Western Provinces Gazette*, 27th March, 1875, p. 417.

ter to the Board, and the Board may thereupon order the existing settlement of the pattí or mahál, in respect of which the arrear is due, to be annulled.

Exception of certain arrears.

The provisions of this section shall not be put in force for the recovery of any arrear of land-revenue which may have accrued on land,

(*a*) while under attachment under section one hundred and fifty-four, or

(*b*) while under the charge of the Court of Wards.

When settlement annulled, Collector may manage land himself, or by agent, or let it in farm.

159. When the settlement of any land has been annulled, the Collector of the district may, with the previous sanction of the Board, either manage the land himself or through an agent, or he may let it in farm to any person willing to accept the same, for such term and on such conditions as may be sanctioned by the Board:

Provided that the term for which land may be so held or farmed be not longer than fifteen years from the first day of July next after the date of such annulment.

Suspension of contracts.

And no contracts made by the persons who immediately before the annulment of the settlement were in possession of the lands comprised therein, or by the persons through whom they respectively claim, relating to such lands, shall, during such term, be binding on the Collector of the district, or his agent or lessee.

Proclamation of attachment or annulment of settlement.

160. When the Collector of the district attaches any land under section one hundred and fifty-four, or when the settlement of any land has been annulled under section one hundred and fifty-eight, he shall make public proclamation thereof on the mahál.[a]

Payments thereafter to defaulter not to discharge payer.

161. No payment made after such proclamation on account of rent, or any other asset of the mahál, to any person other than the Collector of the district, or his agent or lessee, shall be credited to the person making such payment, or relieve him from liability to payment to the Collector of the district, his agent or lessee.

Payments to defaulter in anticipation of due date.

162. No payment made to the defaulter, in anticipation of the usual period for the payment of the rents, shall, without the special sanction of the Collector, be credited to the person making the same in account with the Collector of the district or with the person to whom he gives possession.

Recovery of revenue due from farmer.

163. When any land has been farmed for arrears of revenue, any balance of revenue due from the farmer may be recovered from him or his surety as an arrear of revenue under the provisions of this Act.

Suspension of responsibility of co-sharers for revenue of portion of mahál as to which settlement is annulled.

164. Whenever the settlement of a portion of a mahál is annulled under section one hundred and fifty-eight, the joint responsibility of the co-sharers for the revenue of such portion of the mahál subsequently becoming due shall be in abeyance until a new settlement of such portion is made under section one hundred and sixty-five.

[a] Form of proclamation, *North-Western Provinces Gazette*, 27th March, 1875, p 417.

Offer of settlement to proprietor on expiry of period for which land is farmed or taken under management.

165 After the expiration of the period for which any land has been farmed, or held pursuant to section one hundred and fifty-nine under direct management for the recovery of an arrear of revenue, the Collector of the district shall offer to the person entitled to be settled with under section forty-three a new settlement, on such conditions as the Board may direct, for the remainder of the term of the settlement of the district; and if he refuse such offer, the Collector of the district may (with the previous sanction of the Board) farm the land to some other person, or hold it under direct management under the provisions of sections forty-eight, forty-nine, fifty and fifty-one.

Power to sell by auction defaulter's pattí or mahál.

166. When an arrear of land-revenue has become due and the Collector of the district is of opinion that the other processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of, all or any of such other processes, and subject to the provision hereinafter contained, and with the previous sanction of the Board, sell by auction the pattí or mahál in respect of which such arrear is due.

Bar to sale for certain arrears.

Provided that no land shall be sold—

(*a*) for any arrear which may have accrued while it was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section one hundred and ninety-four, clauses (*a*), (*b*), (*c*), (*d*) or (*e*);

(*b*) for any arrear which may have accrued while it was under attachment under section one hundred and fifty-four;

(*c*) for any arrear which may have accrued while it was held under direct management by the Collector of the district, or in farm by any other person, under section forty-eight, forty-nine, one hundred and fifty-nine or one hundred and sixty-five.

Land to be sold free of incumbrances.

167. Land sold under the last preceding section shall be sold free of all incumbrances,

Grants and contracts void against purchaser

and all grants and contracts previously made by any person other than the purchaser in respect of such land shall become void as against the purchaser at the auction-sale.

Exceptions.

Nothing in the former part of this section applies—

(*a*) in districts or portions of districts permanently-settled, to farms granted in good faith at fair rents, and for specified areas, by a former proprietor for terms not exceeding twenty years, under written leases duly registered;

(*b*) in all districts, to lands held under *bonâ fide* leases at fair rents, temporary or perpetual, for the erection of dwelling-houses or manufactories, or for mines, gardens, tanks, canals, places of worship, burying grounds, such lands continuing to be used for the purposes specified in such leases.

Power to proceed against interest of defaulter in property other than that in respect of which default is made.

168. If the arrear cannot be recovered by any of the above processes, and the defaulter owns any other mahál, or any share in any other mahál, or any other immoveable property, the Collector of the district may proceed against such mahál or other immoveable property, as if it were the land on account of which the revenue is due, under the provisions of this Act:

Provided that no other interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created or contracts entered into by him in good faith shall be rendered invalid by such proceeding.

Procedure in effecting sale.

169. On the receipt of the sanction of the Board to the sale of any land, the Collector of the district shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale,

and (when the land to be sold is a mahál or part of a mahál paying revenue to Government) the revenue assessed upon it, together with any other particulars he may think necessary.

Proclamation of sale.

170. When the land is sold for arrears of revenue due thereon, the proclamation shall declare that the land is to be sold free of any incumbrance except the farms and leases (if any) mentioned in section one hundred and sixty-seven.

Such proclamation shall be made at the head-quarters of the tahsíl in which the land is situate, and also in the village of which it is a part.

Notification of sale.

171. A written notice of the intended sale and of the time and place thereof shall be affixed in the office of the Collector of the district, and, where the Assistant Collector in charge of the sub-division in which the land is situate has a separate office, then also in such office, and a copy of such notice shall be served on the defaulter.

Sale by whom to be made.

172. The sale shall be made either by the Collector of the district in person or by an Assistant Collector specially appointed by him in this behalf.

Time when sale may be made.

No such sale shall take place on a Sunday or other authorized holiday, or until after the expiration of at least thirty days from the date on which the said notice thereof has been affixed in the office of the Collector of the district, and proclamation of the sale has been made in the village in which the land is situate.

Postponement of sale.

The Collector of the district may from time to time postpone the sale, reporting such postponement to the Commissioner of the Division.

When sale may be stayed.

173. If the defaulter pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, to the person appointed under section one hundred and forty-seven to receive payment of the land-revenue assessed on such land, or to the Collector of the district, or the

Assistant Collector in charge of the sub-division of the district in which the land is situate, the sale shall be stayed.

Deposit by purchaser. Re-sale in default of deposit.

174. The person declared to be the purchaser shall be required to deposit immediately twenty-five per cent. on the amount of his bid, and in default of such deposit the land shall forthwith be again put up and sold.

Purchase-money when to be paid.

175. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the land took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then on the first office day after such fifteenth day;

Effect of default.

and in default of payment within such period, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property, or to any part of the sum for which it may be subsequently sold.

Liability of purchaser for loss by re-sale.

176. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules contained in the Code of Civil Procedure for enforcing payment of money in satisfaction of a decree of Court.

Notification before re-sale.

177. Every re-sale of land in default of payment of the purchase-money shall be made after the issue of a fresh notice in the manner prescribed for original sales.

Sale to be reported to Commissioner.

178. Every sale of land under this Act shall be reported by the Collector of the district to the Commissioner of the Division.

Application to set aside sale.

179. At any time within thirty days from the date of the sale, application may be made to the Commissioner of the Division to set as de the sale on the ground of some material irregularity or mistake in publishing or conducting it;

but no sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake complained of.

Order confirming or setting aside sale.

180. On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made, or if such application has been made and rejected, the Commissioner of the Division shall make an order confirming the sale;

and if such application be made and allowed, the Commissioner shall make an order setting aside the sale.

Every order made under this section shall be final.

Bar of claims against Government.

181. If no such application be made within the time allowed by section one hundred and seventy-nine, all claims founded on the irregularity or mistake complained of shall, as against the Government, be barred.

Nothing herein contained shall preclude the institution of a suit in a civil Court for the purpose of setting aside a sale on the ground of fraud.

Refund of purchase-money when sale set aside.

182. Whenever the sale of any land is set aside, the purchaser shall be entitled to receive back his purchase-money, with or without interest, in such manner as the Commissioner of the Division thinks fit.

On confirmation of sale, purchaser to be put in possession.

Certificate of purchase.

183. After a sale of land on which an arrear of revenue is due has been confirmed in manner aforesaid, the Collector of the district in which the land is situate shall put the person declared to be the purchaser into possession of the land, and shall grant him a certificate to the effect that he has purchased the land to which the certificate refers, and such certificate shall be deemed to be a valid transfer of such land, but need not be stamped or registered as a conveyance.

If the land has been sold on account of an arrear due on it, the certificate shall also state that it has been sold free of all incumbrances other than the farms and leases mentioned in section one hundred and sixty-seven.[a]

Bar of suit against certified purchaser.

184. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought, whether in a civil or revenue Court, against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Application of proceeds of sale.

185. When a sale of land under this Act has been confirmed, the proceeds of the sale shall be applied in the first place to defraying the expenses of the sale and to the payment of any arrears due in respect of such land at the date of the confirmation of such sale, and recoverable as an arrear of land-revenue,

and the surplus (if any) shall be paid to the person whose land has been sold;

or, if the land sold were held in shares, then to the co-sharers collectively, or according to the amount of their recorded interests, at the discretion of the Collector of the district.

Surplus not to be paid to creditors, nor retained by Government, except under order of Court.

186. Such surplus shall not (except under an order of a civil Court) be payable to any creditor of the person whose land has been sold, nor shall it (except under a like order) be retained in the Government treasury.

Liability of purchaser for revenue.

187. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the confirmation of the sale.

Pre-emption by co-sharers when land

188. Where any land sold under section one hundred and sixty-six is a pattí of a mahál, any recorded co-sharer, not being himself in arrear with

[a] Form of certificate, *North-Western Provinces Gazette*, 27th March, 1875, p. 418.

Sold is a patti of a mahál.

regard to such land, may, if the lot has been knocked down to a stranger, claim to take the said land at the sum last bid:

Provided that the said demand of pre-emption be made on the day of sale, and before the officer conducting the sale has left the office for the day, and provided that the claimant fulfil all the other conditions of the sale.

Payment under protest and suit for recovery.

189. Whenever proceedings are taken under this chapter against any person for the recovery of any arrear of revenue, he may pay the amount claimed under protest to the officer taking such proceedings,

and upon such payment the proceedings shall be stayed,

and (subject to the pecuniary limitations prescribed by law) the person against whom such proceedings were taken may sue the Government for the amount so paid in any civil Court situate in the district where such proceedings were taken;

and in such suit, the plaintiff may, notwithstanding section one hundred and forty-nine, give evidence of the amount which he alleges to be due from him.

Proprietor of mahál attached, &c., holding sír-land therein, to be recorded as exproprietary tenant.

190. Any proprietor of a mahál or portion of a mahál that is attached, transferred, held under direct management, farmed or sold under the provisions of this Act, who may hold sír-land in such mahál or portion, shall be recorded as an exproprietary tenant of such sír-land; and the rent to be paid by him for such land shall be fixed by the Collector of the district or Assistant Collector accordingly.

Tenure of land under expired settlement until new settlement is made.

191. If the term for which any settlement has been made expires before a new settlement is made, all persons with whom a settlement has been made, who continue after the expiration of such term to occupy the land comprised in the expired settlement, shall, until a new settlement is made, hold the said land upon the conditions of the expired settlement.

Existing record-of-rights.

In all cases the existing record-of-rights shall remain in force until a new record-of-rights is made.

Provisions applied to arrears due at commencement of Act.

192. The provisions of this Act with regard to the recovery of arrears of revenue shall apply to all arrears of land-revenue and sums of money recoverable as arrears of land-revenue and due when this Act comes into force.

CHAPTER VI.

Court of Wards.

Board to have powers of Court of Wards.

193. The Board shall have the powers of a Court of Wards for the superintendence of the persons and property of all proprietors of maháls or parts of maháls who are disqualified for the management of their own lands, or who are put under the charge of the Collector of the district by order of a civil Court under the provisions of any Act for the time being in force.

194. Proprietors shall be held disqualified to manage their own lands when they are— Proprietors when disqualified for management of their lands.

(*a*) females deemed by the Local Government incompetent to manage their estates;

(*b*) minors;

(*c*) idiots;

(*d*) lunatics;

(*e*) persons otherwise rendered incapable by physical defects or infirmities from managing their own estates;

(*f*) persons convicted of a non-bailable offence and disqualified, in the opinion of the Local Government, by vice or bad character, from managing their estates;

(*g*) persons declared by the Local Government, on their own application, to be disqualified from managing their estates.

195. The Court of Wards may, in its discretion, assume or refrain from assuming the superintendence of the person or property of any disqualified proprietor, and may at any time release any person or property from its superintendence: Power to Court of Wards to decline superintendence.

Provided that such person or property has not been placed under the Court of Wards by any competent authority, whose order is necessary for his or its release. Proviso as to person or property placed under superintendence.

196. The Collector of the district shall ascertain and report to the Court of Wards from time to time what proprietors may come within the description of disqualified landholders under section one hundred and ninety-four; Collector to report what proprietors are disqualified.

and the Court of Wards shall, on receipt of the report of the Collector, make such order as may seem to it expedient.

197. Nothing in section one hundred and ninety-six shall prevent the Court of Wards or the Local Government from putting the provisions of this chapter in force without any report from the Collector. Power to enforce provisions of this chapter without report.

198. If, in any case not specially provided for by this or any other law in force for the time being, the right of the Court of Wards to assume or retain the superintendence of the person or property of a disqualified proprietor is disputed by such proprietor, or, if he be a minor, by some person on his behalf, the case shall be reported to the Local Government, whose orders thereon shall be final. Report to Government when Court of Wards' right of superintendence is disputed.

199. The Court of Wards may appoint managers of the property of disqualified proprietors; and, if such proprietors be minors, idiots or lunatics, the Court of Wards may appoint guardians for the care of their persons, and may remove and control such managers and guardians. Appointment, removal and control of managers and guardians.

Proprietors may appoint guardians for their heirs, if disqualified, by will executed and attested in manner required by the Indian Succession Act, 1865;[a] but such appointments shall not be valid till confirmed by the Court of Wards.

Powers of Court of Wards as to male minors within jurisdiction.

200. The Court of Wards may direct where all male minors under its jurisdiction shall reside for the purpose of education or otherwise.

Powers of manager.

201. The manager appointed by the Court of Wards shall have power to collect the rents of the land entrusted to him as well as all other money due to the disqualified proprietor, and to grant receipts therefor;

and he may, subject to the control of the Court, grant or renew such leases and farms, not being for a longer period than five years, as may be necessary for the good management of the property.

Duties of manager.

202. The manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the proprietor's interest as if the property were his own.

Powers of Court of Wards as to property under its charge.

203. The Court of Wards shall have power to give such leases or farms of the whole or parts of the property under its charge, and to mortgage or sell any part of such property, and to do all such other acts, as it may judge to be most for the benefit of the property and the advantage of the disqualified proprietors.

Exercise of their power by Court of Wards through others.

204. The Court of Wards may exercise all powers conferred on it by this Act through the Collectors of the districts in which any part of the property of its Wards may be situated, or through any other person whom it may appoint for such purpose.

Suits by and against proprietors under guardianship.

205. All disqualified proprietors whose property is in charge of the Court of Wards, and for whom guardians have been appointed, shall sue and be sued by and in the name of their guardians:

Provided that no such suit shall be brought or defended by any such guardian without the sanction of the Court of Wards.

Rules relating to managers.

206. Every manager appointed by the Court of Wards shall—

(*a*) give such security as the Court of Wards thinks fit, duly to account for what he shall receive in respect of the rents and profits of the property for which he is appointed;

(*b*) pass his accounts at such periods and in such form as the Court of Wards directs;

(*c*) pay the balance due from him thereon;

[a] See General Acts, vol. II, p. 710.

(*d*) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by such Court;

(*e*) be entitled to such allowance as the Court of Wards thinks fit for his care and pains in the execution of his duties;

(*f*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

CHAPTER VII.

Procedure of Revenue Courts.

207. A Commissioner of a division may hold his Court at any place within his division that he thinks fit. Place for holding Court.

A Collector of a district, an Assistant Collector (whether in charge or not in charge of a sub-division of a district), or an officer in charge of a settlement or Assistant-settlement-officer, may hold his Court at any place within the limits of the district to which he is appointed.

A tahsíldár may hold his Court at any place within the limits of his tahsíl.

208. Any officer mentioned in section two hundred and seven shall have power to summon any person whose attendance he considers necessary for the purpose of any investigation, suit, or other business before him. Power to summon persons to give evidence and produce documents

All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct,

and to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

209. Every summons shall be in writing in duplicate, and shall be signed and sealed by the officer issuing it, or by such person as he empowers in this behalf, Summons to be in writing, signed and sealed.

and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence. Mode of service.

210. If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall serve it in accordance with the preceding section. Service in district other than that of issuer.

211. Every notice under this Act may be served, either by tendering or delivering a copy thereof to the person on whom it is to be served; Mode of serving notices.

or, if such person is a proprietor of land, to his agent,

or by affixing a copy thereof to some conspicuous place on the land to which such notice refers.

No such notice shall be deemed void on account of any error in the name Notice not

void for error.

or designation of any person referred to therein, unless when such error has produced substantial injustice.

Procedure for procuring attendance of witnesses.

212. In any suit instituted before any officer mentioned in section two hundred and seven, if either party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure, section one hundred and fifty-one.

Hearing in absence of party neglecting to attend, and order *ex parte* or by default.

213. Whenever any party to the suit or matter under investigation neglects to attend on the day specified in the summons, the suit or matter may be heard and determined in his absence, and an order passed by default, or *ex parte*, as the case may be.

No appeal from certain orders.

214. No appeal shall lie from an order passed *ex parte*, or by default.

Re-hearing on proof of good cause for non-appearance.

But in all such cases, if the party against whom judgment has been given appears either in person or by agent (if a plaintiff within fifteen days from the date of such order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period), and shows good cause for his non-appearance, and satisfies the officer making the order that there has been a failure of justice, such officer may, upon such terms as to costs or otherwise as he thinks proper, re-investigate the case and alter or rescind the order according to the justice of the case:

Order not to be altered without summons to adverse party.

Provided that no such order shall be reversed or altered without previously summoning the party in whose favour judgment has been given to appear and be heard in support of it.

Mode of taking evidence in certain cases.

215. In all cases coming under sections one hundred and one, one hundred and three, one hundred and twelve, one hundred and thirteen, one hundred and twenty-six, one hundred and forty-two and one hundred and forty-four, the evidence shall be taken down in full in writing in the language in ordinary use in the district, by or in the presence and hearing and under the personal superintendence and direction of the officer making the investigation, and shall be signed by him.

In cases in which the evidence is not taken down in full in writing by the officer making the investigation, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

The Local Government may declare what shall, for the purpose of this section, be deemed to be the language in ordinary use in any district.

Taking evi-

216. When the evidence is given in English, such officer may take it

down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the district shall be made and shall form part of the record. dence given in English Translation to be on record.

217. In all cases other than those specified in section two hundred and fifteen, such officer may either cause the evidence to be taken down in full as aforesaid, or may make a memorandum in his mother-tongue of the substance of the evidence of each witness as the examination of such witness proceeds. Taking evidence in other cases.

Such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record. Memorandum to be in writing signed.

218. All decisions under this Act shall be written by the officer passing the same in his own handwriting, and shall be explained by him in open Court to the parties or their agents. Writing and explanation of decisions.

Every hearing and decision shall be in open Court, and the parties or their authorized agents shall have due notice to attend. Hearing and decision. Notice to parties.

219. Sections two hundred and twelve to two hundred and eighteen (both inclusive) shall apply to proceedings of a judicial nature in revenue Courts. Sections applied to proceedings in revenue Courts.

Reference to Arbitration.

220. A Commissioner of a Division, a Collector of a district, an Assistant Collector of the first class, an officer in charge of a settlement, or an Assistant-settlement-officer, may, with the consent of the parties, by order, refer any dispute before him to arbitration, Reference to arbitration.

and an officer in charge of a settlement or an Assistant-settlement-officer may, by order, refer any dispute before him to arbitration without the consent of the parties,

and a tahsíldár invested with the powers described in sections one hundred and forty to one hundred and forty-four (both inclusive) may, with the consent of the parties, refer to arbitration any dispute arising before him respecting the matters mentioned in the same sections.

221. In referring any such dispute to arbitration, the officer making the reference shall specify, in the order of reference, the precise matter submitted to the arbitrators, and such period as he may think reasonable for the delivery of the award; What to be specified in order of reference.

and he may from time to time extend such period.

222. The parties to the case may each nominate either one or two arbitrators, provided that each party shall nominate the same number; Appointment of arbitrators.

and a third or fifth arbitrator (as the case may be) shall be appointed by the officer making the reference.

And in cases when an officer in charge of a settlement or an Assistant-settlement-officer refers a dispute without the consent of the parties, he shall, if

they refuse to nominate arbitrators under the first paragraph of this section, nominate three or five arbitrators as he thinks fit.

Power to excuse arbitrator from serving and to call for nomination of substitute.

223. Every officer making a reference under this chapter may, on good cause shewn, excuse any person from serving as an arbitrator, and may call on the party who nominated such person to nominate another in the place of the person so excused.

Nomination of new arbitrator in place of one dying or failing to act.

224. If an arbitrator die, desire to be discharged, or refuse or become incapable to act, the party who nominated him shall nominate another person in his place.

Nomination by Collector when parties fail.

225. If in any of the cases provided for by section two hundred and twenty-three or section two hundred and twenty-four, any party fail for a week to nominate in manner aforesaid, the officer making the reference shall appoint some person to act as arbitrator.

Award.

The arbitrators shall determine and award concerning the matters referred to them for arbitration; and the parties disputing, and all persons claiming through them respectively, shall abide by and perform the award of the arbitrators.

Summoning parties to give evidence.

226. If the arbitrators require the presence of the parties, or any other persons whose evidence may be necessary, they shall apply to the officer making the reference, who shall summon such parties or persons;

Obligation of persons summoned.

and all such parties or persons shall be bound to attend, either in person or by agent, as the arbitrators may require, and to state the truth and to produce such documents and other things as may be required before the arbitrators.

Preparation and submission of award.

227. The award shall be made in writing under the hands of the arbitrators, and shall be submitted by them to the officer making the reference, who shall cause notice to be served on the parties to attend and hear the award.

In what cases award or subject of arbitration may be remitted to arbitrators.

228. The officer making the reference may remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrators,

(*a*) if the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

(*b*) if the award is so indefinite as to be incapable of execution;

(*c*) if an objection to the legality of the award is apparent upon the face of the award.

Grounds on which award may be set aside.

229. No award shall be liable to be set aside except on the ground of corruption or misconduct of all or any of the arbitrators.

Application to set aside.

Any application to set aside an award shall be made within ten days after the day appointed for hearing the award.

Decision according to award.

230. If the officer making the reference does not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid,

and if no application has been made to set aside the award,

or if he has refused such application,

he shall decide in accordance with the award of the majority of the arbitrators,

and shall fix the amount to be allowed for the expenses of the arbitration and direct by and to whom, and in what manner, the same shall be paid.

231. Such decision shall not be open to appeal, and shall be at once carried out; Bar to appeal and suit in civil Court.

and no civil Court shall entertain any suit for the purpose of setting it aside or against the arbitrators on account of their award.

ENFORCEMENT OF DECISIONS.

232. Any officer mentioned in section two hundred and seven may execute all decisions made by himself or by an appellate Court on appeals in suits instituted in his Court under the provisions of this Act, in cases wherein a specific sum of money is adjudged to be due, or any costs or damages are awarded, by levying the same by any process in use for the recovery of an arrear of revenue or rent. Execution of decisions.

233. In cases wherein possession of immoveable property is adjudged, the officer making the award may deliver over possession in the same manner, and with the same powers in regard to all contempts, resistance and the like, as may be lawfully exercised by the civil Courts in execution of their own decrees. Delivery of possession of immoveable property.

POWERS OF COLLECTORS.

234. Collectors of districts may, in addition to their own powers, exercise all the powers conferred by this Act on Assistant Collectors. Powers of Collectors of districts.

235. An Assistant Collector in charge of a sub-division of a district shall, as such, have the following powers :— Powers of Assistant Collectors in charge of sub-divisions.

(1.) To refer cases for enquiry or decision to his subordinates, under section eighteen :

(2.) To withdraw cases from his subordinates and to deal with them himself, or to refer them for disposal to any other subordinate officer competent to deal with them, under the same section :

(3.) To appoint patwáris on nomination of proprietors, under section twenty-five; and in case of disagreement, under section twenty-six :

(4.) To appoint patwáris on failure of proprietors to nominate, under section twenty-seven :

(5.) To appoint a patwárí, if disqualified person be nominated by the proprietors, under section twenty-eight :

(6.) To order changes in the proprietary register, under section ninety-four and section ninety-five :

(7.) To levy fees for mutations, under section ninety-six :

(8.) To enquire into cases of reported transfers, under section ninety-eight :

(9.) To levy fines, under section one hundred :

(10.) To declare the person best entitled to property, and put him in possession, under section one hundred and one :

(11.) To enquire into cases of disputed transfer of non-proprietary rights, under section one hundred and two :

(12.) To report on revenue-free holdings, and to assess revenue on resumed grants, under section one hundred and three :

(13.) To assess alluvial lands, under section one hundred and four :

(14.) To receive applications for partition, under section one hundred and nine :

(15.) To issue notification of partition, under section one hundred and eleven :

(16.) To hear objections to partition and disallow partition, under section one hundred and twelve :

(17.) To hear objections raising questions of title or proprietary right, and to decide them or refer them to arbitration, under section one hundred and thirteen :

(18.) To give parties the option of making partition, or of appointing arbitrators, or himself to make partition, under section one hundred and sixteen :

(19.) To make partitions, under sections one hundred and seven to one hundred and thirty-nine (both inclusive) :

(20.) To fix the rent of land occupied by a building and the rent to be paid therefor, under section one hundred and twenty-four :

(21.) To fix the rent of land which a former co-sharer continues, after partition, to cultivate in another mahál, under section one hundred and twenty-five :

(22.) To adjust the use, charges and profits of tanks, wells, water-courses and embankments, under section one hundred and twenty-six :

(23.) To fix the land-revenue on divided portions, under section one hundred and twenty-eight :

(24.) To recover costs of partition, under section one hundred and twenty-nine :

(25.) To strike off a partition-case in default of payment of costs, under section one hundred and thirty :

(26.) To receive applications for, and carry out, the union of estates, under section one hundred and thirty-seven :

(27.) To fine for injuries to boundary-marks, and in certain cases apportion the charges of repairing boundary-marks, under sections one hundred and forty-two and one hundred and forty-three:

(28.) To call on owners to erect or repair boundaries, and, in default, to erect and repair and charge the cost to owners, and to decide disputes regarding boundaries, under section one hundred and forty-four:

(29.) To distrain and sell moveable property of defaulters, under section one hundred and fifty-three:

(30.) To fix the rent to be paid for their sír-land by proprietors of maháls which have been attached, transferred, held under direct management, farmed or sold under the provisions of this Act:

(31.) To exercise any other jurisdiction or authority which by this Act is expressly attributed to Assistant Collectors.

Powers of Assistant Collectors of first class not in charge of sub-divisions.

236. Assistant Collectors of the first class, not in charge of sub-divisions of districts, shall exercise all or any of the powers conferred on Assistant Collectors of the first class in charge of sub-divisions, in such cases or class of cases as the Collector of the district may from time to time refer to them for disposal.

Powers of Assistant Collectors of second class.

237. All Assistant Collectors of the second class shall have power to investigate and report on such cases as the Collector of the district or Assistant Collector in charge of a sub-division of a district may, from time to time, commit to them for investigation and report.

Powers of Settlement-officers.

Powers of officers in charge of settlement.

238. Officers in charge of a settlement may exercise all the powers conferred by or under this Act on Settlement-officers, but none but an officer in charge of a settlement or an Assistant-settlement-officer specially empowered by Government shall have power—

(1.) to frame proposals for assessment, under section forty-five:

(2.) to distribute the assessment, under section forty-six:

(3.) to re-distribute land or revenue, under section forty-seven:

(4.) to exclude proprietors from settlement for refusal to engage, under sections forty-eight and forty-nine:

(5.) to adjust the rent of excluded proprietors, under section fifty-one:

(6.) to make a sub-settlement, under section fifty-four, and a settlement, under section fifty-five:

(7.) to make arrangements for securing the rights of persons with whom the settlement is not made, under section fifty-six:

(8.) to deal with waste-land, under sections fifty-seven to sixty-one (both inclusive):

(9.) to resume and assess rent-free tenures, under sections seventy-nine and eighty:

(10.) to resume and assess revenue-free land, under section eighty-six:

(11.) to decide claims to hold land revenue-free, under sections eighty-eight and eighty-nine.

Powers of Assistant-settlement-officers.

239. All other powers conferred on Settlement-officers by this Act shall be exercised by Assistant-settlement-officers under such restrictions as the officer in charge of a settlement may from time to time impose.

Investing of Settlement-officers with powers of Collector and Assistant Collector.

240. The Local Government may invest any officer in charge of a settlement with all or any of the powers of a Collector of a district under this or any other Act for the time being in force in the North-Western Provinces, and any Assistant-settlement-officer with all or any of the powers conferrible on an Assistant Collector under this or any other Act for the time being in force in the North-Western Provinces, within such limits, and with such restrictions, and for such period, as it thinks fit.

Matters excepted from cognizance of civil Courts.

241. No civil Court shall exercise jurisdiction over any of the following matters:—

(*a*) Claims by any person to any of the offices mentioned in sections twenty-four and thirty-three, or to any emolument appertaining to such office, or in respect of any injury caused by his exclusion therefrom:

(*b*) The claim of any person to be settled with, or

the validity of any engagement with Government for the payment of revenue, or

the amount of revenue, cess or rate to be assessed on any mahál, or share of a mahál, under this or any other Act for the time being in force:

(*c*) Any claims connected with or arising out of any process enforced on account of neglect or refusal to accept the assessment or terms of sub-settlement proposed by the Settlement-officer:

(*d*) The formation of the record-of-rights,

the preparation, signing or attestation of any of the documents contained therein, or

the notification of settlement:

(*e*) The determination of the class of a tenant or the rent payable by him, or the period for which such rent is fixed under this Act:

(*f*) The distribution of the land or allotment of the revenue of a mahál by partition; or

the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahál of another co-sharer:

(*g*) Any matters provided for in sections fifty-three to sixty-one (both inclusive):

(*h*) Any matters provided for in sections seventy-nine to eighty-nine (both inclusive) and one hundred and three:

(*i*) Claims connected with, or arising out of, the collection of revenue (other than claims under section one hundred and eighty-nine), or any process enforced on account of an arrear of revenue,

or on account of any sum which is by this or any other Act realizable as revenue:

(*j*) Claims to set aside a sale for arrear of revenue other than claims under section one hundred and eighty-one:

(*k*) Any matter falling within the jurisdiction of the Court of Wards, or on which the jurisdiction of that Court is actively exercised, except for the purpose of recovering property committed by that Court to the charge of the Collector of the district.

In all the above cases, jurisdiction shall rest with the revenue-authorities only.

CHAPTER VIII.

APPEALS.

Appeal to Collector of district.

242. An appeal shall lie from any order passed by any Assistant Collector of the first or second class, whether in charge of a sub-division or not, to the Collector of the district.

Appeal to officer in charge of settlement.

An appeal shall lie from any order passed by an Assistant-settlement-officer to the officer in charge of the settlement.

Appeal to Commissioner of division.

243. An appeal shall lie to the Commissioner of the division from any order passed by the Collector of a district or an officer in charge of a settlement, or from any declaration or distribution of assessment under section forty-five, forty-six or forty-seven.[a]

Appeal to Board.

244. Subject to the provisions of section two hundred and forty-nine, an appeal shall lie to the Board from any order passed under this Act by the Commissioner of a division.

Limitation of appeal.

245. No appeal under section two hundred and forty-two shall be brought after the expiration of thirty days from the date of the order complained of.

No appeal under section two hundred and forty-three shall be brought after the expiration of sixty days from the date of the order complained of.

No appeal under section two hundred and forty-four shall be brought after the expiration of ninety days from the date of the order complained of.

Time to be excluded.

246. In computing the period prescribed for an appeal under this chapter, the day on which the order complained of was pronounced, and the time requisite for obtaining a copy of such order, shall be excluded.

[a] Appeals from assessments, *North-Western Provinces Gazette*, 17th June, 1876, p. 731.

Admission of appeal after period of limitation.

247. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer or Board to whom or to which he appeals, that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order under this section admitting an appeal.

Saving of orders expressly made final.

248. Nothing in this chapter applies to orders expressly made final by this Act or to appeals under section one hundred and thirty-two.

Commissioner's order when not appealable, but subject to revision.

249. In any appeal to the Commissioner of a division from an order passed by the Collector of the district or officer in charge of a settlement, on an appeal from an order of an Assistant Collector of the first or second class, or of an Assistant-settlement-officer, the Commissioner's order shall not be appealable, but shall be subject to revision by the Board under sections two hundred and fifty-three and two hundred and fifty-five.

Powers of appellate Court.

250. The appellate Court may either admit or summarily reject the appeal:

If it admit the appeal, it may reverse, modify or confirm the order of the Lower Court,

or it may direct the Court to make such further investigation or to take such additional evidence as it may think necessary,

or it may itself take such additional evidence.

Power to suspend execution of order of lower Court.

251. In any case in which an appeal is allowed, the appellate Court may, pending the order on appeal, direct the execution of the order of the lower Court to be suspended.

CHAPTER IX.

MISCELLANEOUS.

Provision where Court is closed.

252. Whenever a Court is closed on the last day of any period provided in this Act for the presentation of any memorandum of appeal, or for the deposit or payment of any money in or into Court, the day on which the Court re-opens shall be deemed to be such last day.

Power of Board to call for and examine record of case or proceedings of subordinate revenue Court.

253. The Board may call for and examine the record of any case, or the proceedings of any revenue Court subordinate to it, for the purpose of satisfying itself as to the legality or propriety of any order passed, and as to the regularity of the proceedings of such Court.

Power of Commissioner, &c., to call for records and proceedings.

254. The Commissioner of a division, or the Collector of a district, or the officer in charge of a settlement, may call for and examine the record or proceedings of any revenue Court subordinate to him respectively, for the purposes mentioned in section two hundred and fifty-three;

and if he is of opinion that the proceedings taken or order passed by such subordinate officer should be modified, cancelled or reversed, he shall report the case with his opinion thereon for the orders of the Board. Report to Board.

255. If in any case, whether called for by the Board or reported for orders, it appears to the Board that any order or proceedings should be modified, cancelled or reversed, it may pass such order thereon as it thinks fit. Power of Board in cases called for or reported.

256. The Board may, with the previous sanction of the Local Government, make and issue general rules for regulating the practice and procedure of their own Court, or of any revenue Court subordinate to them, not otherwise provided for by law.[a] Power to Board to make rules.

257. The Local Government may invest any tahsíldár with the powers described in sections one hundred and forty to one hundred and forty-four (both inclusive), and may from time to time make rules consistent with this Act, Power of Local Government to invest tahsíldárs with certain powers. To make rules.

(*a*) for regulating the assessment of land gained by alluvion, or the decrease of the assessment of a mahál in consequence of diluvion :[b]

(*b*) for the guidance of Settlement-officers[c] in fixing rent under section seventy-one or section seventy-two and section seventy-four :

All such rules shall be published in the *North-Western Provinces Gazette*, and shall thereupon have the force of law.

The Board, subject to the sanction of the Local Government, may from time to time make rules consistent with this Act, for Power of Board to make rules.

(*c*) prescribing the duties to be performed respectively by tahsíldárs,[d] kánúngos,[e] and patwárís[f];

(*d*) regulating the appointment of tahsíldárs[g] and officers[h] inferior to them in rank, their duties, punishment, suspension and dismissal;

(*e*) prescribing the manner in which Settlement-officers shall report for sanction the rates and method of assessment and the amounts they propose to assess;

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[a] Conduct of revenue Court business by Commissioners, *North-Western Provinces Gazette*, 31st October, 1874, pp. 1835, 1836. Procedure in appeals to Commissioners, *ibid.*, pp. 1837—1839: in appeals to Board of Revenue, *ibid.*, 7th November, 1874, pp. 1869—1872. Dates and places for hearing of appeals and applications for revision of judgment by Board, *ibid.*, 21st October, 1876, p. 1367. Instalments of revenue (amendment of former rules), *ibid.*, 11th November, 1876, pp. 1454—1456.

[b] Alluvion and Diluvion, *ibid.*, 12th December, 1874, pp. 2018—2021 : Board's Circular, No. I-1-9 of 7th September, 1876: *North-Western Provinces Gazette*, 9th October, 1875, p. 1441 : *ibid.*, 4th December, 1875, pp. 1680, 1681.

[c] Settlement-officers, *ibid.*, 9th October, 1875, pp. 1426—1440. Correction of rules for Settlement-officers, *ibid.*, 4th December, 1875, p. 1676.

[d, g] Tahsíldárs, *ibid.*, 27th March, 1875, pp. 422—424.

[e] Kánúngos, *ibid.*, 29th May, 1875, pp. 721—723 : *ibid.*, 28th May, 1877, p. 497.

[f] Patwáris, *ibid.*, 3rd April, 1875, pp. 454—460 : *ibid.*, 28th May, 1877, p. 483.

[h] Lambardárs, *ibid.*, 27th March, 1875, p. 425.

(*f*) generally for the guidance of all persons in matters connected with the enforcement of this Act.[a]

Amendment of Act XL of 1858.

258. In Act No. XL of 1858[b] (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), section two shall be read as if, for the words "estates paying revenue to Government," the words "mahâls assessed to revenue or held revenue-free," were substituted.

Disposal of suits and applications pending before Settlement-officer, when settlement is closed.

259. If, while any suit or application under this Act is pending before a Settlement-officer, the settlement of the district in which the subject-matter of the suit or application is situate is closed by the issue of a notification under section thirty-seven, such suit or application shall be made over to the Court of the Collector of the district, and may be by him transferred or otherwise dealt with as if it had been originally instituted in or made to his Court.

THE FIRST SCHEDULE.

I. The province of Kumáon and Garhwál.

II. The Terai Parganas, comprising—Bázpúr, Káshípúr, Jaspúr, Rudarpúr, Gadarpúr, Kilpurí, Nanak-Maṭtha and Bilheri.

III. In the Mirzápúr district:—

(1.) The tappás of Agori Khás and South Kon in the Pargana of Agori.

(2.) The tappá of British Singrauli in the Pargana of Singrauli.

(3.) The tappás of Phulwa Dúdhí and Barhá in the Pargana of Bichipár.

(4.) The portion lying to the South of the Kaimor Range.

IV. The Family Domains of the Mahárájá of Benares, comprising the following parganas:—

Bhadohi and Kheyra Mángror in the Mirzápúr district.

Kaswá Rájá in the Benares District.

V. The tract of country known as Jaunsár Báwar in the Dehra Dún District.

[a] Estates under Court of Wards, *North-Western Provinces Gazette*, 25th September, 1875, pp 1345—1347.

[b] See *supra*, p. 132.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

Part I.—Regulations.

Number and year.	TITLE OR ABBREVIATED TITLE.	Extent of repeal.
II of 1795 ...	A Regulation for re-enacting, with Modifications and Amendments, the Rules regarding the temporary and permanent Settlements of the Revenue in the Province of Benares.	So much as has not been repealed.
V of 1795 ...	A Regulation prescribing Rules for the Conduct of the Collector of the public Revenue in the Province of Benares.	So much as has not been repealed.
VI of 1795 ...	A Regulation prescribing the Process by which the Collector and the Tehseeldars are to realize the public Revenue payable from the Lands in the Province of Benares.	So much as has not been repealed.
XIX of 1795 ...	A Regulation for forming a quinquennial Register of the Landed Estates in Benares, subject to the Payment of Revenue to Government, and of the Amount of the fixed annual Revenue payable to Government from each Estate.	So much as has not been repealed.
XLI of 1795 ..	A Regulation prescribing Rules for trying the Validity of the Titles of Persons holding, or claiming a Right to hold, Lands exempted from the Payment of Revenue to Government in the Province of Benares, &c.	The whole.
XLII of 1795 ...	A Regulation for enacting, with Modifications, the Rules for trying the Validity of the Titles of Persons holding, or claiming a Right to hold, Altumgah, Jaghire and other Lands in the Province of Benares, exempt from the Payment of public Revenue, &c.	So much as has not been repealed.
LI of 1795 ...	A Regulation respecting ryotty Pottahs in the Province of Benares.	So much as has not been repealed.
LVIII of 1795 ..	A Regulation for granting to the Collectors a Commission on the Jumma of Lands, &c.	So much as has not been repealed.
XV of 1797 ...	A Regulation for levying certain Fees to defray the Expense of the Offices for keeping the Records in the Native Languages which relate to the public Revenue established under Regulations XXI, 1793, and XXX, 1795.	The whole, so far as it relates to the North-Western Provinces.

SECOND SCHEDULE—*continued.*

Number and year.	Title or abbreviated Title.	Extent of repeal.
V of 1800 ...	A Regulation for extending to the Province of Benares the Rules contained in Regulation VII, 1799, for enabling Proprietors and Farmers of Land to realize their Rents with greater Punctuality: as well as such other Parts of the above Regulation as are applicable to the Province of Benares.	The whole.
VIII of 1800 ...	A Regulation for preparing a general Pergunnah Register of Lands; and for certain Alterations in the prescribed Registers of Estates paying Revenue, and Lands held exempt from the Payment of Revenue.	The whole, so far as it relates to the North-Western Provinces.
I of 1801 ...	A Regulation to explain and amend Part of the Rules for collecting the Public Revenue contained in Regulations VII, 1799, and V, 1800, &c.	The whole, so far as it relates to the North-Western Provinces.
III of 1803 ...	A Regulation for receiving, trying and deciding suits or complaints, declared cognizable in the Courts of Adawlut, &c.	So much as has not been repealed.
V of 1803 ...	A Regulation for empowering the Sudder Dewanny Adawlut to try appeals, &c.	Section twenty-six.
XXIII of 1803 ...	A Regulation for establishing in each Zillah, in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company, an Office for keeping the Records in the Native Languages which relate to the public Revenue, and prescribing Rules for the Conduct of the Keepers of the Records.	The whole.
XXV of 1803 ...	A Regulation prescribing Rules for the Conduct of the Board of Revenue and the Collectors, &c.	The whole.
XXVII of 1803 .	A Regulation prescribing the process by which the Collector and the Tehseeldars are to realize the public Revenue payable from the Lands, in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company.	So much as has not been repealed.
XXX of 1803 ...	A Regulation prescribing Rules for the Grant of Pottahs by the Landholders, in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company, to their Under-farmers, Tenants, and Ryots.	So much as has not been repealed.

SECOND SCHEDULE—*continued.*

Number and year.	TITLE OR ABBREVIATED TITLE.	Extent of repeal.
XXXI of 1803 ...	A Regulation for trying the Validity of the Titles of Persons holding, or claiming a Right to hold, Lands exempted from the Payment of Public Revenue, under Grants not being Badshahee or Royal Grants, in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company, &c.	So much as has not been repealed.
XXXVI of 1803 .	A Regulation for trying the Validity of the Titles of Persons holding, or claiming a Right to hold, Lands exempted from the Payment of public Revenue, under Badshahee or Royal Grants, in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company, &c.	So much as has not been repealed.
XLII of 1803 ...	A Regulation for forming a periodical Register of the Zemindaries and other landed Estates, paying revenue to Government, in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company.	So much as has not been repealed.
LII of 1803 ...	A Regulation for establishing a Court of Wards in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company.	So much as has not been repealed.
V of 1804 ...	A Regulation to provide for the Appointment and Removal of the Native Officers of Government in the Judicial, Revenue, and Commercial Departments, and in the Departments of Salt, Opium, and Customs; also to make further Provision for administering the Oath prescribed by the Statute 33rd Geo. III, Cap. 52.	So far as it relates to the appointment of Native officers employed in the Land Revenue Department, North-Western Provinces.
VIII of 1805 ...	A Regulation for extending to the Conquered Provinces, &c.	So much as has not been repealed.
IX of 1805 ...	A Regulation for enacting into a Regulation certain Articles of a Proclamation to be issued in the Conquered Provinces situated within the Dooab and on the right Bank of the River Jumna, and in the Territory ceded to the Honourable the English East India Company in Bundlecund by the Peishwa.	The whole.
VI of 1806 ...	A Regulation for the more effectual Repair of Embankments.	So much as has not been repealed.

SECOND SCHEDULE—*continued.*

Number and year.	Title or abbreviated Title.	Extent of repeal.
VII of 1807 ...	A Regulation for making certain Alterations in the Provisions which have hitherto been in force in the Province of Benares, respecting Persons paying or wishing to pay their Revenue directly to the Treasury of the Collector, instead of paying it through the Medium of a Tehseeldar.	So much as has not been repealed.
IV of 1808 ...	A Regulation for the Appointment and Administration of the Office of Canoongoe in the Ceded and Conquered Provinces, and in the Province of Benares.	The whole.
VIII of 1809 ...	A Regulation for modifying Parts of the Rules in Force respecting the Appointment and Removal of the Native Officers of Government in the Judicial, Revenue, and Commercial Departments.	So far as it relates to the Land Revenue Department.
V of 1812 ...	A Regulation for amending some of the Rules at present in force for the Collection of the Land Revenue.	The whole, so far as it relates to the North-Western Provinces.
XVIII of 1812 ...	A Regulation for explaining Section II, Regulation V, 1812, and rescinding Sections III and IV, Regulation XLIV, 1793, and Sections III and IV, Regulation L, 1795, and enacting other Rules in lieu thereof.	The whole, so far as it relates to the North-Western Provinces.
XII of 1817 ...	A Regulation for securing the better Administration of the Office of Patwárí in the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the District of Cuttack, the Pergunnah of Puttaspore, and its Dependencies.	The whole, so far as it relates to the North-Western Provinces.
I of 1819 ...	A Regulation for replacing the Districts of Dinagepore and Rungpore under the Management of the Board of Revenue, &c.	The whole, so far as it relates to the North-Western Provinces.
II of 1819 ..	A Regulation for modifying the Provisions contained in the existing Regulations, regarding the Resumption of the Revenue of Lands held free of Assessment under Illegal or Invalid Tenures, &c.	The whole, so far as it relates to the North-Western Provinces.
IV of 1821 ...	A Regulation for authorizing a Collector of Land Revenue or other Officer employed in the Management or Superintendence of any Branch of the Territorial Revenues, to exercise, in certain Cases, the Powers of Magistrate, or Joint Magistrate, &c.	The whole, so far as it relates to the North-Western Provinces.

SECOND SCHEDULE—*continued.*

Number and year.	Title or abbreviated Title.	Extent of repeal.
III of 1822 ...	A Regulation for modifying the Constitution, and altering the Jurisdiction of the several Boards vested with the Superintendence of the Land Revenue, in the Territories belonging to the Presidency of Fort William.	The whole, so far as it relates to the North-Western Provinces.
VI of 1822 ...	A Regulation to establish a Court of Wards for Benares, and to define and explain certain of the Rules regarding the Powers and Jurisdiction of the several Courts of Wards.	So much as has not been repealed.
VII of 1822 ..	A Regulation for declaring the Principles according to which the Settlement of the Land Revenue in the Ceded and Conquered Provinces, &c.	The whole, so far as it relates to the North-Western Provinces.
XI of 1822 ...	A Regulation for modifying and explaining the existing Regulations relative to the Sale of Land for the Recovery of Arrears of Revenue, &c.	The preamble and sections two and thirty-six.
IX of 1824 ...	A Regulation to extend, with certain Exceptions and Conditions, the existing Settlement in the Conquered Provinces and in Bundlecund for a further period of Five Years.	So much as has not been repealed.
IX of 1825 ...	A Regulation for extending the Operation of Regulation VII, 1822, &c.	The whole, so far as it relates to the North-Western Provinces.
XIII of 1825 ...	A Regulation to maintain the Settlement made for certain Lands held exempt from the Payment of Revenue by Canoongoes, in the Province of Behar, &c.	The whole, so far as it relates to the North-Western Provinces.
XIV of 1825 ...	A Regulation to declare the extent of the Authority possessed by the Revenue Authorities, subordinate to the Governor General in Council, in the Confirmation of Lakhiraj Tenures, &c.	The whole, so far as it relates to the North-Western Provinces.
III of 1828 ..	A Regulation for the Appointment of Special Commissioners for the more speedy Hearing and Determination of Appeals from the Decisions of the Revenue Authorities, &c.	The whole, so far as it relates to the North-Western Provinces.
IV of 1828 ...	A Regulation to declare and extend the Powers to be exercised by Collectors, when making or revising Settlements, under the Provisions of Regulation VII, 1822.	The whole, so far as it relates to the North-Western Provinces.
I of 1829 ...	A Regulation for constituting Commissioners of Revenue and Circuit, &c.	The whole, so far as it relates to the North-Western Provinces.

SECOND SCHEDULE—*continued.*

Number and year.	TITLE OR ABBREVIATED TITLE.	Extent of repeal.
IV of 1829 ...	A Regulation for modifying, in certain Cases, the Rules laid down in Clauses Fourth and Fifth, Section II, Regulation III, 1828, relative to Appeals to the Special Commissioners appointed under that Regulation; also for modifying part of Clause Second, Section X, Regulation I, 1829.	The whole, so far as it relates to the North-Western Provinces.
XI of 1820 ...	A Regulation for modifying the Rules in force relative to the Construction and Repair of Embankments.	The whole.
X of 1831 ...	A Regulation for vesting in a Deputation from the Sudder Board of Revenue, to be ordinarily stationed at Allahabad, the exclusive Control over the Revenue Affairs of the Province of Benares, &c.	The whole, so far as it relates to the North-Western Provinces.
IX of 1833 ...	A Regulation to modify certain Portions of Regulation VII of 1822, and Regulation IV of 1828, &c.	Sections two to fifteen, both inclusive.

PART II.—ACTS.

Act I of 1841 ..	An Act for facilitating the Collection of the Revenue of Government and defining the Interest intended to be conveyed by Public Sales for the Realization of Arrears of the Public Revenue in Putteedarry Estates.	So much as has not been repealed.
Act XII of 1841	An Act for amending the Bengal Code in regard to Sales of Land for Arrears of Revenue.	So much as has not been repealed.
Act I of 1845 ...	An Act to amend Act No. XII of 1841, entitled "An Act for amending the Bengal Code in regard to Sales of Land for Arrears of Revenue."	So much as has not been repealed.
Act VIII of 1846	An Act for determining the Duration of the existing Settlement of the North-Western Provinces.	The whole, except as to the settlement of Banda.

SECOND SCHEDULE—*concluded.*

Number and year.	TITLE OR ABBREVIATED TITLE.	Extent of repeal.
Act I of 1847 ...	An Act for the Establishment and Maintenance of Boundary-marks in the North-Western Provinces of Bengal.	The whole.
Act XXVI of 1851	An Act for making better provision for the education of male minors subject to the superintendence of the Court of Wards.	The whole Act, so far as it applies to the North-Western Provinces.
Act XXXI of 1858	An Act to make further provision for the Settlement of Land gained by alluvion in the Presidency of Fort William in Bengal.	The whole, so far as it relates to the North-Western Provinces.
Act XIX of 1863	An Act to consolidate and amend the Law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal.	The whole, so far as it relates to the North-Western Provinces.

ACT No. I OF 1874.

Received the Governor General's assent on the 10th of February 1874.

An Act for the quieting of Titles depending on judgments delivered by certain Settlement Officers in the North-Western Provinces.

Preamble.

WHEREAS, by Act XIV of 1863, section eight, the Local Government of the North-Western Provinces was empowered to invest any officer employed in making or revising settlements of the land-revenue with the powers of a Collector as described in Act X of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such officer, of the nature mentioned in section twenty-three of the same Act, or in the said Act XIV of 1863, while such officer is so employed:

And whereas shortly after the passing of the said Act XIV of 1863, the Local Government determined that all Collectors, Assistant Collectors and Deputy Collectors at any time employed in making or revising settlements, should, during such employment, be invested with the powers described in section eight of the same Act, and after the said determination such officers have in fact exercised such powers from the date of their respective employments in the duties aforesaid, and large numbers of suits of the nature mentioned in the same section have been heard and decided by such officers notwithstanding that their employment commenced subsequently to the year 1863, and notwithstanding that the Local Government may not have expressed

their intention to invest them with the said powers otherwise than by appointing them to such employment:

And whereas it has recently been held that certain Deputy Collectors whose employment in settlement-work commenced subsequently to the twenty-first day of April 1863, have not been invested with the said powers:

And whereas, by Act X of 1859, section one hundred and fifty, it is enacted that all the powers vested in the Collector by the preceding sections of that Act may be exercised by any Deputy Collector in cases referred to him by a Collector; and in all cases without such reference, by any Deputy Collector placed in charge of any sub-division of a district:

And whereas, by section ten of Act XIV of 1863, it is enacted that if a suit for enhancement of rent be brought before any officer empowered under section eight of that Act to hear the same, such suit shall be heard and determined by such officer, notwithstanding that no notice of enhancement shall have been served under section thirteen of the said Act X of 1859 on the party from whom such enhanced rent is claimed: and that in such case the statement of claim should set forth the grounds on which such enhancement of rent is claimed:

And whereas, by Act XXII of 1872,[a] it was enacted that all Deputy Collectors and all other persons theretofore or thereafter invested with all or some of the powers of Deputy Collectors for the purposes of Acts X of 1859 and XIV of 1863, should be deemed to have been or to be (as the case might be) Deputy Collectors in charge of sub-divisions of districts within the meaning of the same Acts, or Assistants to Collectors invested with the powers of Deputy Collectors in such charge: and it was also enacted that all suits preferred and applications made to, and orders made and acts done by, such Deputy Collectors and other persons in the exercise of such powers should be deemed to have been and to be as duly preferred, made and done as if the said Deputy Collectors and other persons had been Deputy Collectors in charge of sub-divisions of districts within the meaning of the same Acts:

And whereas, by force of the said Acts, all Deputy Collectors in the North-Western Provinces have, ever since Act X of 1859 came into force, been of like authority with Deputy Collectors in charge of sub-divisions, and, as such, have had jurisdiction to hear all suits of the nature mentioned in section twenty-three of that Act and in Act XIV of 1863, and all Collectors have had and have exercised very largely the power of referring to Deputy Collectors subordinate to them cases brought in the first instance before themselves:

And whereas, since the passing of Act XXII of 1872,[b] it has been held

[a, b] Repealed by Act No. XVIII of 1873.

that a Deputy Collector not invested with powers under section eight of Act XIV of 1863, has not any jurisdiction to hear suits of the nature mentioned in section twenty-three of Act X of 1859:

And whereas it has also recently been held that the said Act XXII of 1872 has no operation in cases in which a decision has been delivered contrary to the true meaning of the said Acts X of 1859 and XIV of 1863, as declared in Act XXII of 1872, but prior to the passing of Act XXII of 1872:

And whereas, ever since the passing of Act XIV of 1863, officers invested with the powers of Collectors under section eight of that Act have been in the habit of exercising the said power conferred on Collectors by section one hundred and fifty of Act X of 1859, and of referring to Deputy Collectors employed as aforesaid suits of the nature mentioned in section eight of Act XIV of 1863 for the purpose of having such suits heard and decided by such Deputy Collectors, and great numbers of suits have been so heard and decided:

And whereas it has recently been held that officers engaged in making or revising settlements, and invested with the powers of Collectors under section eight of Act XIV of 1863, have not the power of referring suits to Deputy Collectors; and also that, if a suit for enhancement of rent be brought before such an officer, he is bound by section ten of Act XIV of 1863 to hear and determine it in person:

And whereas, by the effect of such holdings, great numbers of decisions in suits of the nature mentioned in section eight of Act XIV of 1863 have become open to question, and for the quieting of titles, and the avoidance of litigation, it is necessary that the validity of such decisions should be affirmed, and that the meaning of the said Acts should be declared:

And whereas it is apprehended that other objections may be made to the authority of officers who, either in the first instance or on appeal, have decided suits of the nature mentioned in Act XIV of 1863, and it is expedient that such decisions should not be impeached for want of authority in such officers:

And whereas it is believed that many decisions passed by officers engaged in making or revising settlements have, since the dates of the holdings aforesaid, been declared or treated by certain appellate Courts as void for want of authority in such officers, and it is expedient that the parties concerned should not, by reason of such declaration or treatment, find it necessary or expedient to appeal from the decisions of such Courts;

It is hereby enacted as follows:—

Powers of Deputy Collectors under Regulation IX of 1833.

1. All officers who, since the twenty-first day of April 1863, have been employed in making or revising settlements, and who have legally been invested with, or have in fact exercised, the powers of Collector, Assistant Collector or Deputy Collector, have been, and are, invested with the powers

described in section eight of Act XIV of 1863, during the term of such employment.

Power of Collectors to refer cases to Deputy Collectors.

2. By section one hundred and fifty of Act X of 1859, it was intended, and has always been the law, that Collectors should refer to Deputy Collectors such of the cases brought before themselves as they think fit.

Act XIV of 1863, section 8, explained.

3. By section eight of Act XIV of 1863, it was intended that when the officers therein mentioned have been invested with the powers therein mentioned, they should have, and it has always been the law that they have had, the whole, and not a portion only, of such powers, and in particular the power of reference conferred on Collectors by Act X of 1859, section one hundred and fifty.

Act XIV of 1863, section 10, explained.

4. The meaning of section ten of Act XIV of 1863 was, and has always been, that in the suits therein mentioned the want of such notice as therein mentioned shall not be a bar to the progress of the suit, and not that the suits therein mentioned must be heard and decided by the same officer from the beginning to the end.

Suits heard by officers pursuant to the said Acts, to be deemed properly heard.

5. All suits heard and decided by any officers in pursuance of the said Acts and of the intentions of the said Local Government as herein explained, have been heard and decided by proper authority, and the decisions given in such suits are valid decisions subject only to such appeals as are by law provided.

Decisions of officers acting under said Acts in certain suits validated.

6. No decision made, whether in the first instance or on appeal, by any Collector, Assistant Collector, Deputy Collector or other officer purporting to act under the provisions of Act X of 1859 or Act XIV of 1863 in any suit of the nature mentioned in section twenty-three of Act X of 1859 or in Act XIV of 1863, shall be impugned or deprived of effect by reason of the objection that such officer did not possess the jurisdiction legally necessary for passing such decision; but all such decisions shall be dealt with by every appellate Court as if they had been made by a tribunal possessing the authority to entertain and decide the suit.

Suits to be decided in accordance with this Act and Act XXII of 1872.

7. Every suit instituted, or question arising, under Act X of 1859 or Act XIV of 1863, which comes before any Court of Justice, shall be decided in accordance with this Act and in accordance with Act XXII of 1872, at whatever time such suit may have been commenced, or such question may have arisen, and at whatever time any decision may have been delivered affecting such suit or question.

Validation of orders and proceedings of Settlement-officers

8. Every decree or order of an appellate Court made on or after the first day of January 1871, which has declared or treated any judicial order or proceeding of an officer employed in making or revising a settlement to be void for want of authority in such officer, is hereby declared to be itself void, and

all such orders and proceedings of such officers shall be deemed to be as valid as if no such decree or order declaring them to be void for want of authority had been passed in appeal: declared void on appeal.

Provided that whenever the merits of the case constituted any portion of the grounds of appeal, and the appellant, who has succeeded on the ground of want of authority in the Court of first instance, desires to prosecute his appeal on the merits, and applies to the appellate Court for that purpose within ninety days after the passing of this Act, the appellate Court shall resume the hearing of the appeal and proceed to determine it on the merits:

Provided also that the provisions of this section shall not apply to any case in which the holder of a decree treated as invalid for want of authority as aforesaid has, before the passing of this Act, obtained a decree in a competent Court in another suit upon the same cause of action.

9. In construing the said Acts, and in deciding on the validity of judicial proceedings thereunder, all Judges and Courts of Justice shall have regard to the practice which has actually prevailed, and shall also, in the absence of evidence or express law to the contrary, presume that what purports to have been done by public authority has been rightly done. Presumption in favour of judicial and official acts.

10. This Act extends only to the territories under the government of the Lieutenant-Governor of the North-Western Provinces, and shall come into force at once. Local extent. Commencement.

ACT No. VII OF 1877.

Received the Governor General's assent on the 28th of March 1877.

An Act to amend the law relating to assignments from the general Provincial Fund established under the North-Western Provinces Local Rates Act, 1871.

WHEREAS it is expedient to authorise the Local Government of the North-Western Provinces to provide out of the general Provincial Fund established under the North-Western Provinces Local Rates Act, 1871, for payment of certain charges incurred or to be incurred on account of canals and railways in the North-Western Provinces; It is hereby enacted as follows:— Preamble.

1. Section 10 of the said Act shall be repealed, and in lieu thereof the following shall be substituted:— Substitution of new section for section 10 of Act XVIII, 1871.

[*Vide supra*, p. 201.]

2. In section 12 of the said Act, for the word "assignment" in each of the places where it occurs, the word "allotment" shall be substituted, and for the word "re-assigned," the word "re-alloted" shall be substituted. Amendment of Act XVIII of 1871, ss. 12, 13 and 14.

And in section 13 of the said Act, for the word "assignment," the word "allotment" shall be substituted.

And in section 14 of the same Act, for the word "amount" in each of the places where it occurs, the word "allotment" shall be substituted.

ACT No. VIII of 1877.

Received the Governor General's assent on the 28th of March 1877.

An Act for the licensing of certain trades and dealings in the North-Western Provinces.

Preamble. WHEREAS it is expedient that persons carrying on certain trades and dealings in the North-Western Provinces should take out licenses and pay for the same; It is hereby enacted as follows:—

Short title. 1. This Act shall be called "The North-Western Provinces License Act, 1877:"

Local extent. It extends to the provinces under the government of the Lieutenant-Governor of the North-Western Provinces; but nothing herein contained applies to persons earning their livelihood solely by agriculture.

Commencement. And it shall come into force at once.

"Collector" defined. 2. In this Act "Collector" means the chief officer in charge of the revenue-administration of a district.

Annual licenses to be taken out. 3. Every person who, on and after the first day of April 1877, falls under any of the heads specified in the schedule hereto annexed, and carries on (whether on behalf of himself or any other person) his trade or dealing, shall take out a license under this Act, and shall pay for the same the annual fee mentioned in the same schedule as payable by persons of the class to which he belongs.

Officer to grant license. 4. Every license under this Act shall be granted by the Collector of the district in which the person requiring such license carries on his trade or dealing: provided that, if such person carries on his trade or dealing in more than one district in the North-Western Provinces, the license shall be granted by the Collector of the district in which his principal place of business is situate.

Every such license shall be signed by the Collector granting it, or by such officer as he may appoint in this behalf.

Particulars to be specified in the license 5. Every such license shall specify—

(*a*) the date of the grant thereof:

(*b*) the name, father's name, caste and trade or dealing of the licensee:

(*c*) the fee paid for the license:

(*d*) the place or places where the licensee intends to carry on his trade or dealing for the ensuing year; and

(*e*) the term for which the license shall remain in force,

and shall be received in evidence as *primâ facie* proof of all matters contained therein.

Commencement and expiration of license.

6. Every such license shall have effect and continue in force from the day of the date thereof till the first day of January next after the day of the granting thereof.

Renewal of license.

7. Every person to whom any such license has been granted and who desires to continue to carry on his trade or dealing after the expiration thereof, shall take out a fresh license for that purpose for the following year, to expire on the day appointed in the last preceding section, and shall renew the same so long as he desires to continue to carry on such trade or dealing.

List of Licensees.

Collector to prepare annual list of licensees.

8. As soon as may be after the first day of April 1877 and the first day of January in every subsequent year, the Collector shall prepare a list of the persons to be licensed under this Act in the district or place aforesaid. Such list shall state—

(*a*) the trade or calling of each of the persons therein named;

(*b*) the class under which he is charged; and

(*c*) the fee to be paid for his license.

Such list shall be in the language of the district, shall be filed in the office of the Collector, and shall be open to public inspection at all reasonable times without any payment.

Collector to determine class under which licensee is to be charged.

9. The Collector shall from time to time determine under which of the classes mentioned in the said schedule every person to whom a license may be granted by him as aforesaid shall be charged, and shall amend the said list accordingly.

Publication of list and notification.

The list or such part or parts thereof as the Collector thinks fit shall be published in the principal muhallas or ganjes of all towns, and in the chaupál, or other public place, in all villages concerned, together with a notification that if any person mentioned in such list continues his trade or dealing, payment of the amount specified in the list as payable by him must be made in the year 1877 within thirty days of such publication in that year and within thirty days next after the first day of January in each succeeding year.

Petition of objector.

10. Any person mentioned in such list and objecting to the class under which he is charged may, within thirty days after such publication or within such further time as the Collector may in each case think fit, apply by petition to the Collector in order to establish his right to have his name transferred to another class or altogether removed from the list.

Hearing of petition.

11. The Collector shall fix a day for the hearing of the petition, and on the day so fixed, or on such subsequent day as he may from time to time direct, shall hear the same and pass such order thereon as he thinks fit:

Provided that if in the judgment of the Collector the nett annual earnings of the petitioner are less than two hundred rupees, the petitioner's name shall be removed from the list, and the fee, if any, paid by him shall be returned.

Bar to appeal.

There shall be no appeal from an order under this section.

Power to remit fee.

12. The Collector may in his discretion remit the whole or any part of the fee payable under this Act by any person who has carried on his trade or dealing for a portion of the year only.

Persons carrying on several trades.

13. A person or firm carrying on several trades or businesses and coming under more than one of the designations in the said schedule shall be chargeable only under one of the said designations at the discretion of the Collector; and in the case of a firm, payment by any one of the partners shall for the purposes of this Act be considered payment by the firm.

Penalty for carrying on business without a license.

14. If after expiry of the period mentioned in the notification published under section 9, for payment of the amount specified therein, any person (whether he is or is not mentioned in the said list) carries on his trade or calling without having taken out a license as required by this Act, he shall be liable, by order of the Collector, to pay twice the fee with which he would otherwise have been chargeable under this Act, and on receipt of such payment, the Collector shall grant him a license.

All sums due under this section and all fees payable under this Act shall be recoverable as if they were arrears of land-revenue.

License to be produced on demand.

15. Every person required by this Act to take out a license, who without reasonable excuse neglects or refuses to produce and show his license when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition, shall, on conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees.

Prosecution to be at instance of Collector.

No person shall be proceeded against for any such offence except at the instance of the Collector, and there shall be no appeal from any sentence under this section.

Receivers and managers chargeable.

16. Courts of Wards and receivers and managers appointed by any Court in British India, shall be chargeable under this Act in respect of any trade or dealing of which the income is officially in their possession or under their control.

Power to retain assessment paid by trustee, &c.

17. When any trustee, guardian, curator, committee or agent is charged under this Act in such capacity, or when any Court of Wards or receiver or manager appointed by any Court is charged under this Act, every Court and person so charged may, from time to time, out of the money coming to its

or his possession as such trustee, guardian, curator, committee or agent, or as such Court of Wards, receiver or manager, retain so much as is sufficient to pay the fee charged.

Every such person or Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Municipalities.

Power to require returns from municipalities.

18. The Collector may require any municipal committee constituted under Act No. XV of 1873 [a] to furnish, within a period to be specified under the orders of the Local Government, returns showing the names and numbers of persons chargeable under this Act resident within the limits of such municipality, together with the class under which they respectively fall and the fees payable by them respectively.

If the municipal committee fails within the period prescribed to make such returns, or if it make such returns and the Collector has reason to doubt their accuracy, he may at any time cause a return showing the names, numbers and classes aforesaid to be prepared in such manner as may be prescribed by the Local Government.

Notice to municipalities.

19. When the return mentioned in section 18 has been furnished or prepared, notice shall be served on the municipality, calling on it to pay to the Collector within a period to be specified in the notice, a sum calculated on such return in accordance with the provisions of this Act.

Any municipality may appropriate any part of its revenues to the payment of the sum leviable from it under this section, or raise such further sums in addition to its existing revenue as may be needful for such payment: provided that such further sums be raised in accordance with the said Act No. XV of 1873. [b]

Miscellaneous.

Payment of taxes raised and penalties recovered under Act.

20. All taxes raised and penalties recovered under this Act shall be paid to the credit of the Local Government, or as such Government from time to time directs.

Powers of Collector under Act may be exercised by other officers.

21. All or any of the powers and duties conferred and imposed by this Act on a Collector may, subject to the orders of the Collector of the district, be exercised and performed by an Assistant Collector or such other officer as the Local Government from time to time appoints in this behalf.

Obligation to furnish information to Collector.

22. Every person shall be legally bound to furnish information to any officer or person exercising any of the powers of a Collector under this Act when required by him to do so.

Power to exempt and make rules.

23. The Local Government may from time to time, with the previous sanction of the Governor General in Council,

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[a, b] See *supra*, p. 233.

(*a*) exempt from the operation of this Act any portion of the territories subject to such Government, or any class of trade or dealings falling under the said schedule;

(*b*) make rules consistent with this Act, (1) for regulating the time and manner of collecting the fees charged under this Act, (2) for providing in any case or class of cases for serving notices on persons charged under this Act, and (3) generally for the guidance of officers in matters connected with the enforcement of this Act.[a]

THE SCHEDULE ABOVE REFERRED TO.

CLASS I.

	Fee payable by licensee.
Bankers	Rs. 16.
Professional money-lenders	
Companies registered under the Indian Companies Act, 1866	
Owners of cotton-screws	
Persons keeping shops for the sale of European goods ...	
Hotel-keepers	
Wholesale-dealers	
Dealers in precious stones	

CLASS II.

Cloth-sellers	Rs. 8.
Metal-vessel-sellers	
Fuel-sellers (talwálas)	
Chaudhrís	
Letters-out of conveyances and cattle	
Contractors (thíkadárs)	
Printers and publishers	
Manufacturers of lac	
Commission Agents...	
Brokers	
Bill-brokers	
Pawn-brokers	
Money-changers	
Dealers in gold and silver lace	
Druggists	
Harness-makers	
Dealers in metals, not being merely artisans ...	

CLASS III.

Persons carrying on any trades or dealings not above specified	Rs. 2.

[a] See *North Western Provinces and Oudh Gazette*, 16th June, 1877, p. 707. *ibid*, 23rd June, 1877, p 733.

PART III:

REGULATIONS MADE UNDER THE THIRTY-THIRD OF VICTORIA, CHAPTER 3.

REGULATION No. IV OF 1876.

[*Published in the Gazette of India of 15th July 1786, p. 373, and in the North-Western Provinces Government Gazette of 29th July 1786, p. 926.*]

A Regulation for the peace and government of the Tarái District under the government of the Lieutenant-Governor, North-Western Provinces.

Preamble. WHEREAS it is expedient to provide for the peace and government of the Tarái District in manner hereinafter appearing; It is hereby enacted as follows:—

Short title. This Regulation may be called "The Tarái Regulation, 1876:"

Local extent. It extends to the parganas of Káshípur, Jaspur, Bázpur, Rudarpur, Gadarpur, Kilpuri, Nánakmata and Bilheri, hereinafter called the Tarái District.

Repeal of Act XIV of 1861, and rules issued under it. **2.** Act No. XIV of 1861 (*to remove certain tracts of country in the Rohilkund Division from the jurisdiction of the tribunals established under the general Regulations and Acts*) and all instructions and rules issued thereunder are repealed.

Tarái District exempt— **3.** Except as provided in the schedule hereto annexed, and as may, from time to time, be declared or provided by the Local Government, in exercise of the powers conferred by the Scheduled Districts Act, 1874, the Tarái District shall not be subject—

from the jurisdiction of ordinary Civil Courts, (*a*) to the jurisdiction of the Courts of Civil Judicature constituted by the Regulations of the Bengal Code and by the Acts passed by the Governor General in Council;

and of ordinary Revenue Courts and offices, (*b*) to the jurisdiction or control of the Courts or offices of Revenue constituted by the said Regulations and Acts;

and from the procedure prescribed from such Courts, and from the civil jurisdiction of the High Court.

(*c*) to the system of procedure prescribed by the said Regulations and Acts for the said Courts of Civil Judicature and Courts or offices of Revenue; or

(*d*) to the civil jurisdiction of the High Court for the North-Western Provinces.

Administration of justice to be governed by the rules now prescribed.

4. The administration of justice in the said district in civil suits and in revenue suits, regular and summary, shall be conducted by the authorities mentioned in the schedule hereto annexed, and in conformity with the systems of procedure therein prescribed:

Provided that nothing herein contained shall be deemed to affect the powers conferred on the Local Government by the sixth section of the Scheduled Districts Act (XIV of 1874); and that where any appointment, regulation or direction made or issued in exercise of the said powers appears to be in conflict with any provision of the said schedule, such appointment, regulation or direction shall prevail, and such provision, so far as is inconsistent therewith, shall be repealed.

Rules of decision in cases of certain classes.

5. In questions regarding inheritance, special property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family-relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far as such law has been by legislative enactment altered or abolished, or is opposed to the provisions of this Regulation:

Provided that when among any class or body of persons or among the members of any family any custom prevails which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such custom shall, notwithstanding anything herein contained, be given effect to.

Rule in cases not expressly provided for.

6. In cases not provided for by section five, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

Validation of proceedings.

7. No judgment heretofore given, order passed, or proceeding held, by or before the Commissioner of Kumáon, or any other officer, in any civil, criminal or revenue case, original or appellate, which has arisen in any of the parganas constituting the Tarái District, shall be deemed to be, or to have been, invalid merely on the ground that such officer had not jurisdiction, or that the Act or Regulation under which such judgment or order was passed, or such proceeding held, was not in operation in the said district.

SCHEDULE.

(*See section 4.*)

CHAPTER I.

RULES FOR THE TRIAL OF CIVIL SUITS.

1. The Superintendent of the Tarái District shall have authority to try original suits without limit of value, and regular appeals from the decision of the Assistant Superintendent in original suits.

2. The Assistant Superintendent shall have authority to try original suits not exceeding Rs. 1,000 in value.

3. No suit shall be entertained, unless it be instituted within the periods hereinafter mentioned from the time that the cause of action arose or accrued in each description of cases:

Suit respecting the succession or right to moveable and immoveable property, and respecting partnership	... 12 years.
Suit for debts on bond, or accounts not being partnership-accounts, or accounts of retail-purchases settled at short periods	3 ,,
Suits for other debts and other accounts than the above, injuries to person or character, disputes regarding marriage, caste or non-fulfilment of contract ...	... 1 year.

Provided that the time shall be excluded during which the plaintiff shall be under the disability of infancy, lunacy or idiocy, or during which the plaintiff shall be precluded by law from suing the defendant by reason of any disability whatever, either of the plaintiff or of the defendant.

4. (*a*).—Every suit shall be commenced by a plaint, which shall be presented to the Court by the plaintiff in person, or by his recognized agent.

(*b*).—Every suit may, at the option of the plaintiff, be instituted either in the Court of the Superintendent or in that of the Assistant Superintendent, if he be competent to try it; but the Superintendent may, when a suit is instituted in his Court, refer it for trial to the Court of the Assistant Superintendent: provided that he be competent, in respect of the value of such suit, to try the same.

(*c*).—The term "recognized agent" is defined to mean a personal servant, partner, relation or friend whom the Court may admit as a fit person to represent a party; persons carrying on business on behalf of bankers and traders, such as gumáshtas, managing agents of landholders, such as karindas; nearest male relations of women; and persons *ex officio* authorized to act for Government.

(*d*).—No vakíls or mukhtárs are to be admitted in the Civil Courts of the Tarái District.

5. The plaint shall be distinctly written either in Hindí or in Urdú, and shall contain the following particulars:—

1st.—The name, description and place of abode of the plaintiff.

2nd.—The name, description and place of abode of the defendant, so far as they can be ascertained.

3rd.—The relief sought for, the subject of the action, the cause of action, and when it accrued.

6. If the plaintiff sue on any written document, or rely upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented, and at the same time deliver a copy of the document to be filed with the plaint. If the document be an entry in a book, the plaintiff shall produce the book to the Court, together with a copy of the entry on which he relies, to be filed with the plaint. And unless such document be so delivered in, or its non-production at the time be sufficiently excused, or unless the Court may see fit to extend the time for producing the same, it shall not be admitted as proof in support of the claim.

7. The Court on receiving a plaint shall proceed to make enquiry by examination of the plaintiff or his recognized agent as to the merits of the claim, and shall record the examination in full. If it should appear to the Court that the plaintiff has no *primâ facie* cause of action, or that the defendant or matter of the suit is not within the jurisdiction of the Court, or that the action is barred by lapse of time, the Court shall reject the plaint.

8. The Court upon rejecting a plaint shall record its decision, which shall be reduced to writing in the vernacular language of the Judge, together with the reasons upon which it is founded.

9. If the plaint be admitted, it shall be entered with all the particulars described in rule five in a book to be kept for the purpose, and to be called the Register of Civil Suits; and the entries shall be numbered in every year according to the order in which the plaint is presented.

10. When the plaint has been registered, a summons, under the seal and signature of the Court, shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a recognized agent. The summons shall specify the name and residence of the plaintiff, and the amount as well as the description of the claim.

11. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit, and the summons shall contain a direction accordingly.

12. The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be, or supposed to be, at the time from the place where the Court is held; and the

summons shall order the defendant to produce, on his appearance in Court, any document in his possession of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

13. The officer in charge of the summons shall endeavour to obtain the signature of the defendant in acknowledgment of service. In the event of the defendant's absence, the officer shall proceed to his residence and acquaint his family or neighbours with the object of his mission, and shall obtain the signature of two credible witnesses to the summons in proof of service. On his return the Názir shall ascertain from him, and report in writing, the mode in which the summons has been served.

14. (*a*).—On the expiration of the period specified in the summons, if the defendant fail to attend the Court, proclamation shall be issued for his attendance within a further period, to be fixed according to local circumstances in the different parts of the Tarái District.

(*b*).—If within the period fixed by the summons or proclamation, an application should be made to the Court to permit the answer to the plaint to be filed through a recognized agent, or in writing, the Court may, on special ground shown to its satisfaction, grant the application: provided that the prohibition contained in clause *(d)*, rule four, shall in every case be strictly observed.

(*c*).—If the defendant shall fail to attend, not having been excused personal appearance under the preceding clause, the Court may at its discretion issue a warrant for the arrest of the defendant, who shall thereupon be taken into custody and brought before the Court; but no defendant shall be so arrested who shall give to the party charged with the warrant a declaration in writing that he is willing that the case should be tried *ex parte*.

15. On the appearance of the defendant in answer to the summons, or in arrest, or on the appearance of the defendant's recognized agent, if personal attendance has been excused, the parties to the suit shall be confronted, and shall be interrogated on oath or solemn affirmation, and a written answer may also be received for the defendant at the discretion of the Court. The precise points at issue between them, which are material to the decision of the suit, shall be determined, or the suit shall be finally disposed of, according as may have been directed in the same summons. Either party may cross-examine the other, and any witnesses then present, or documentary proof adduced, may be examined.

16. If, after such interrogation and examination of evidence, a decree can be properly made without further enquiry, the Court shall pronounce its judgment, and make its decree accordingly. The judgment shall be reduced to writing before it is delivered in the vernacular language of the officer presiding

in the Court, and shall state the points to be decided, the decision thereon, and the reasons for the decision. It shall be signed by the said presiding officer, and dated on the day in which it is pronounced. The decree shall also state whether the amount of any sum adjudged is to be paid by instalments, and shall specify the dates and amounts for payment of instalments ; and, in case of divided costs, the portions chargeable to parties, as well as the amount of any damages awarded on the ground of a suit being found to have been groundless and vexatious, together with the amount of costs.

17. But if it should be impracticable to pass a decree without further enquiry, that is to say, if any issue result from the interrogatories on which it is necessary to hear further evidence, the Court shall call upon both parties to adjust the dispute amicably within a fixed period, or to consent to arbitration, and to furnish a list of such documentary and oral evidence as each is able to tender or desires to be called.

18. (*a*).—If the parties to the suit will not adjust it privately or agree to arbitration, the Court shall procure the attendance of the witnesses, and require the production of the documentary evidence on a day fixed.

(*b*).—The Court shall ascertain and record the names of the witnesses whom the parties intend to bring forward, and whether they will bring their own witnesses, or whether they, or either of them, require the assistance of the fourth[a] to procure the attendance of a witness, either to give evidence or to produce a document. The Court shall then fix a convenient day, not more than ten days distant, for the examination of witnesses and the trial of the suit, and shall, if required to do so, subpœna the witness or witnesses of either party, or of both parties, to attend on the fixed day, and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Court.

19. (*a*).—If either party shall fail to produce his proof within the time allowed him, or to take out a subpœna for the attendance of any witness whose attendance he may require to be enforced, the suit shall be proceeded with and determined as if such party had declined to produce any proof.

(*b*).—If on the day fixed for the trial under clause (*b*) of rule eighteen, the witnesses appear, they shall be examined, and the evidence of each witness shall be recorded in writing, in a narrative form, in the presence and under the personal superintendence of the presiding officer, and in the presence of the parties or their recognized agents. Every witness shall be required to sign his deposition.

20. The Court, after considering the arguments and evidence, shall pro-

[a] *Sic.* Read "Court."

nounce its judgment in open Court, and record its decree in the manner prescribed by rule sixteen.

21. (*a*).—Whenever a suit may be referred to arbitrators, as provided for in rule seventeen, a term shall be fixed for the award to be presented : and an officer of the Court shall be required to attend for the purpose of calling the parties and their witnesses before the arbitrators. The arbitrators shall not be permitted to leave the precincts of the Court until they shall have delivered their award.

(*b*).—When the arbitrators have arrived at a decision, their written award, together with any depositions of witnesses which they may have taken in the case, shall be presented and acknowledged in open Court, and in the presence of both parties to the suit.

(*c*).—Although every consideration should be given to the award of arbitrators, especially when they are unanimous, yet in no case shall the Court be bound to accept such award, unless satisfied that it is a reasonable and just decision. If the Court shall have clear and strong reasons to doubt the justice of the decision, it shall be competent to interrogate the arbitrators as to the grounds upon which they have formed their opinion, and the same shall be recorded on the back of the document itself; and thereafter the Court may either return the proceedings to the arbitrators, and desire them to reconsider their award, and to record it with more clearness and precision, or it may direct a fresh arbitration, or it may proceed to try and dispose of the case itself.

(*d*).—The case having been completed by award of arbitrators accepted by the Court, or by the Court having determined on the merits, the Court shall declare its judgment, and record its decree in the manner prescribed by rule sixteen.

22. Certified copies of the decree and judgment shall be furnished to the parties or their recognized agents on application to the Court, and on the production of the necessary stamp-paper, where stamps are required for that purpose by any law for the time being in force. The application may be made either orally or by writing. The date on which application for copy may be made, the date on which the necessary stamp-paper for a copy may be presented, the date of the copy being completed, and of its actual delivery or tender, shall be endorsed on the original decision, and on the copy or copies also. If the applicant shall fail to attend, or shall refuse to receive the copies, the Court shall certify the same on the back of the copies, which shall then be filed with the record of the case.

23. Execution of decree may be applied for by petition presented to the Court which pronounced the decree.

24. (*a*).—The petition shall set forth in tabular form the following

particulars, namely, the number of the suit, the name of the parties, and the date of the decree; the subject of the decree; whether an appeal has been preferred or admitted from the decision; whether any, and what, adjustment of the matter in dispute has taken place since the date of the decree; the specific amount due to the petitioner under the decree, whether on account of costs of suit or otherwise; and the name of the individual against whom the enforcement of the decree is solicited.

(*b*).—An attested copy of the decree shall be presented with the application.

25. If the Court shall have awarded payment of any sum of money by instalments, and default should be made in the payment of any instalment as it falls due, execution shall issue, upon the application of the decree-holder, for the full amount of all the instalments remaining unpaid.

26. Execution on a judgment shall not issue against the heir or other representative of a deceased party, without notice to such heir or other representative to appear and be heard.

27. No process of execution shall issue to enforce any judgment or decree passed by the Civil Courts of the Tarái District, unless some proceeding shall have been taken to enforce such judgment or decree, and to keep the same in force within one year next preceding the application for such execution.

28. Execution of decree, if applied for within the period prescribed by the preceding rule, may be enforced at once; provided that, if an appeal shall have been preferred, and adequate security be tendered, or if within the prescribed period such security shall have been tendered, execution may be stayed until the appeal shall have been decided, or until the period of appeal shall have expired without institution of appeal.

29. In pending cases, if the Court shall be satisfied that the defendant is preparing to alienate his property, or to remove himself from the Court's jurisdiction, security may be demanded, and if not tendered, the Court can arrest the person or attach the property of the defendant to an amount sufficient to satisfy the claim.

30. Execution may be enforced by delivery of possession of contested property, or by arrest of person, or by attachment and sale of property in satisfaction of the decree and of costs of suit and of execution.

31. If the decree-holder apply for execution by arrest of the defendant's person, he shall deposit in the Court, at the time of the issue of the warrant, diet-money for one month of thirty days, after the rate of one anna per diem, unless the Court for any special reason direct the deposit of diet-money at a higher rate, which shall in no case exceed four annas per diem.

32. Diet-money at the same rate shall be paid previous to the commencement of every succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

33. All diet-money spent in providing subsistence for any prisoner may be added to the costs in the suit; and any diet-money not so spent shall be returned to the party who deposited the same.

34. (*a*).—In executing a writ of execution against the property of any defendant, the Court shall direct such portion of his moveable property to be attached as may appear sufficient to cover the amount due; and it will be only when the amount realized from such property shall fail to satisfy the decree, that the Court will be competent to order the attachment of any immoveable property.

(*b*).—In no case shall the tools and implements of the trade or occupation of the defendant be sold in execution of decree; nor shall land in which a proprietary right has been acquired, by whatever means, be sold in execution of a decree without the sanction of the Commissioner first obtained.

(*c*).—The attaching officer shall prepare an inventory of the articles distrained, and shall give them in charge of some respectable person, from whom a receipt must be taken, to be filed with the proceedings of the case.

(*d*).—As soon as the attachment has been effected, a proclamation in the current language of the country, describing the property attached, and specifying the time and place of the proposed sale, shall be issued at least thirty days before the appointed day of sale, and a copy thereof shall be affixed to the defendant's dwelling-house, and another to the building in which the Court is held.

(*e*).—If within the period of the proclamation any claim shall be preferred to the property thus advertised for sale, or if any objection shall be raised against the proposed sale, it shall be competent to the Court to enquire into such claim or objection, and if satisfied as to its validity, to release the said property from attachment, or to postpone the sale; or, if the claim should appear to be frivolous, to dismiss it, with all the costs incurred in the investigation.

(*f*).—If, pending the investigation of such a claim or objection, the sale be postponed, and the claim be disallowed, a second proclamation of a term of not less than ten days shall be issued, for the purpose solely of giving notice to intending purchasers. No other objectors will be heard.

(*g*).—On the day fixed for sale the attached property shall be divided into convenient lots, and each lot shall be put up in succession until the amount of the decree be realized. When the decree is satisfied, the sale shall cease, and the property remaining unsold shall be released from attachment.

(*h*).—The entire sum bid for moveable property must be paid up within twenty-four hours, and delivery of the property withheld until the money is paid. A deposit of 10 per cent. on the price will be required at the time of sale, and this deposit, unless redeemed within the period above prescribed, will be forfeited, and the property will be re-sold at the risk of the original purchaser.

(*i*).—In sales of immoveable property the full amount of the purchase-money shall be paid within fifteen days; in default of which the deposit of 10 per cent. required at the time of auction will be forfeited, and the property will be re-sold at the risk of the first purchaser.

35. No compromise on a decree or payment in satisfaction shall be admitted unless notified to the Court *vivâ voce* or by a writing, which may also be sent through the local tahsíldár; and no execution of a decree which has been relinquished by the decree-holder shall revive, unless on good reason shown to the satisfaction of the Court.

36. The record of execution of decree shall always be an annexure of the file of the original suit.

37. If any witness, on whom a subpœna shall have been duly served under clause (*b*), rule eighteen, shall neglect to attend the Court, the Court shall be authorized to issue an order in writing to the Názir to apprehend and bring the witness before the Court, and may impose on such witness a fine not exceeding five hundred rupees for his default, realizable by the attachment and sale of his property: provided that no fine imposed under this rule shall exceed the amount of the property under litigation in the suit.

38. If a witness, for whose attendance a subpœna shall have been issued as aforesaid shall fail to attend, the Court, upon proof that the evidence of such witness is material, and the said witness is absconding or keeping out of the way to avoid attendance, may cause a proclamation requiring the attendance of such person to give evidence, at a time and place to be therein named, to be affixed, in the presence and with the attestation of two householders, to his house; and if, nevertheless, such person should not attend at the time and place to be named, his property, real and personal, to such amount as the Court may deem reasonable, shall be liable under an order of the Court to attachment and sale.

39. (*a*).—The Civil Courts of the Tarái District are hereby empowered to hear and determine cases of resistance of their own processes occurring within their own jurisdiction, provided they be unattended with personal violence; and, on proof of the offence, may adjudge the offender to pay a fine not exceeding one hundred rupees, and in default of payment to be imprisoned for any period not exceeding thirty days in the civil jail at the public expense.

(*b*).—If the resistance of process be attended with personal violence or other aggravation, the case shall be referred by the civil Court to the criminal Court; and upon such reference the criminal Court shall act in accordance with the law in force for the administration of criminal justice.

(*c*).—The Court, on the statement on oath or solemn affirmation of any peon or other officer resisted in the execution of any process, may summon the person accused to answer the charge, and on failure of such person to attend, may issue a warrant for his apprehension.

40. (*a*).—Every decision passed by the Superintendent of the Tarái District in original suits shall be open to a regular appeal to the Commissioner of Kumáon, whose decision shall be final: provided that whenever the decision of the Superintendent and the Commissioner shall differ, it shall be in the option of the Government, on petition being presented, to refer the proceedings to the High Court for their report and opinion, who will report accordingly within three months after the date thereof, and thereafter to pass such orders as may appear proper.

(*b*).—From the decision of the Assistant Superintendent in original suits a regular appeal shall lie to the Superintendent.

(*c*).—From the decision of the Superintendent in regular appeal a special appeal may be admitted by the Commissioner of Kumáon for good and sufficient reasons, to be set forth at length in the order for admission.

41. The petition of appeal shall be accompanied by an authenticated copy of the decision or order appealed against.

42. An appeal from the decision of the Assistant Superintendent must be preferred within thirty days, and an appeal from the decision of the Superintendent, whether in original suits or in regular appeals, must be preferred within sixty days from the date of the order or decision appealed against: provided that the period which may intervene between the presentation of stamped paper for a copy and the completion of the copy shall not be included in the said terms of thirty and sixty days.

43. The petition of appeal shall set forth concisely, and under distinct heads, the ground of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively.

44. (*a*).—The petition of appeal shall be preferred by the appellant in person or by his recognized agent, and the Appellate Court shall give immediate notice to the respondent, and, if it think necessary, may summon the respondent.

(*b*).—The Appellate Court may take additional evidence in a case on appeal or remand it for further investigation.

(*c*).—The Appellate Court may suspend the execution of a decree pending the decision of an appeal.

45. No order or decision shall be reversed or modified, and no case shall be remanded, on account of any error, defect or irregularity not productive of injury to either party.

46. A register of regular appeals and a register of special appeals shall be kept in each Appellate Court.

47. A register of applications for execution of decree shall be kept in the Court of the Superintendent and of the Assistant Superintendent according to the form given.

CHAPTER II.

Rules for the Trial of Revenue Suits, regular and summary.

48. The following classes of summary suits are cognizable in the Revenue Courts of the Tarái District :—

Class I.—Suits of málguzárs, whether proprietors or farmers from Government, of under-farmers, of holders of rent-free or quit-rent tenures, or of duly authorized agents, against cultivators or other tenants, and of tenants of land against their sub-occupants, for arrears of rent in money or in kind, or for the value of the landlord's share in the crop, calculated at the market-rate : provided the claim rests on payment or usage of past years, or on specific written engagements, or on the order of a competent Court.

Class II.—Suits of lambardárs against their under-sharers for quota of revenue, agreeably to written compact, or family or established usage.

Class III.—Suits of málguzárs, proprietors or farmers from Government, or of holders of rent-free or quit-rent tenures, against agents entrusted with the management of their estates, or the collection of rents, for production of accounts, and recovery of moneys alleged to be due.

Class IV.—Suits of farmers of duties on ábkárí, tárí or intoxicating drugs against licensed manufacturers and vendors of those articles for recovery of arrears due on sub-contracts.

Class V.—Suits of cultivators, tenants or under-tenants against any of the parties described in Class I, and of under-sharers against their lambardárs, for undue exaction of rent.

Class VI.—Suits of cultivators, tenants or under-tenants against any of the parties described in Class I, and of under-sharers against their lambardárs on account of actual or attempted dispossession, without authority of law from their holdings.

49. The suit in each case under Classes I, II, III and IV must be filed within a twelve-month after the rent has become due, or the cause of action has arisen. The suit in cases under Classes V and VI must be brought within

sixty days from the date of alleged execution or actual or attempted dispossession.

50. Provided that, if it shall appear to the Court before which any of the aforesaid suits is instituted, or to the Commissioner in appeal, that it raises issues which are not fit to be tried summarily, an order may pass for the trial of the case under the rules for regular suits, the plaint being filed *de novo* on the requisite stamp. No order of the Court under this proviso shall be open to appeal.

51. The following classes of regular suits are cognizable by the revenue officers:—

CLASS I.—Suits regarding the málguzárí right in land, or the right in registered muáfi land, or in land held on a quit-rent, claims to share in the rents and profits of lands, whether such be málguzárí or registered muáfi land, or land held on a quit-rent, or to share in the manorial privileges which the Government does not reserve to itself. Such claims may include wells, tanks and water-courses *boná fide* employed in or applicable to agricultural purposes.

CLASS II.—Suits brought on any of the grounds mentioned under Classes I to VI for summary suits, where, from lapse of time or on other grounds, the suit cannot be tried in the summary department.

CLASS III.—Suits brought by any of the parties described in Class I of summary suits, for rent of land held without authority by tenants in excess of pattás or preceding engagements, and contrary thereto.

CLASS IV.—Suits brought by the same parties to oust tenants, not in default, at the end of any year or at the expiration of any lease, on the ground that such tenants have no permanent right of occupancy.

CLASS V.—Suits brought by the same parties to enhance the rent of tenants at the time and on the ground stated in the preceding rule.

52. The Superintendent of the Tarái District shall have authority to try original revenue suits, regular and summary, without limit of value.

The Assistant Superintendent shall have authority to try such suits when the value does not exceed Rs. 1,000.

53. Every such suit may at the option of the plaintiff be instituted either in the Court of the Superintendent or in that of the Assistant Superintendent, if he be competent to try it; but the Superintendent may, when a suit is instituted in his Court, refer it for trial to the Court of the Assistant Superintendent: provided that he be competent, in respect of the value of such suit, to try the same.

54. The Civil Courts have no jurisdiction in cases under the preceding classes of summary and regular suits, which are to be tried in the revenue Courts; but they are competent to try and dispose of regular suits for orchards,

gardens and wells thereto belonging, or for houses or other buildings, the private property of individuals, with the land on which such houses or buildings are erected, and the enclosures round them.

55. The plaint must state precisely the subject-matter of complaint, the names of all the persons complained against, the correct valuation, and the time when the cause of action arose.

56. A single action must not involve different issues, unless on leave specially given by the Court, and must relate to subject-matters within the authority of the revenue Court in its fiscal capacity.

57. If the suit be for málguzárí right, possession and manorial privileges, or for share in the profits of málguzárí right, possession and manorial privilege incidental thereto, the plaint must specify the Government jama of the estate, or the specific proportion of jama on the share claimed.

58. If the suit be for possession or share in the profits or registered muáfi land, or land held on a quit-rent, the gross rental of the whole, or of the specific share claimed in the muáf or tenure held on a quit-rent, must be stated in the plaint.

59. If the suit be for tenant-occupancy, or for the right to levy rent of land in tenant-occupancy, the extent of the land, and the amount of rent payable or fairly demandable, must be stated in the plaint.

60. If the suit be for possession of wells, tanks and water-courses employed for agricultural purposes, the amount of damage sustained by deprivation or obstruction must be stated in the plaint.

61. If the suit be instituted for maintaining possession of a tenant against ouster, the extent of land and amount of rent must be stated in the plaint.

62. If the plaint be wanting in precision and completeness, the Court may allow it to be amended, as it may think fit. But if the plaint be preferred in a false or fictitious name, or if the cause of action be beyond twelve years, the plaintiff shall be non-suited.

63. Regular suits shall be tried and decided in the revenue Courts, and shall not be delegated to subordinate officers, but with consent of parties, or at the discretion of the Court; in either case, the grounds being set forth in an interlocutory proceeding, a commission may be issued to the tahsíldárs, or other local officers, for enquiry, description and report, with or without the taking of oral evidence, on any point on which an investigation on the spot may be thought requisite. But this rule shall not be regarded as prohibitory of the practice of making over to officers vested with the powers of Assistant, regular suits for investigation, completion of evidence, and decision or proposed award, as may be pre-arranged, and subject to the orders of the Superintendent of the Tarái District and of the appellate authorities.

64. The plaint, having been instituted, shall be numbered and registered, after which, on the deposit of the requisite talbána within a reasonable specified term, a summons shall be served on the defendants. The summons shall contain a short account of the claim, and shall be issued under the seal and signature of the Court through an officer, who shall require the defendants to attend within a time to be specified by the Court.

65. The officer in charge of the summons shall endeavour to obtain the signature of the defendants, or, in the event of their absence, shall proceed to their residence and acquaint their families or neighbours with the object of his mission, and shall obtain the signature of two credible persons to the summons in proof of service. On his return the Názir shall ascertain from him, and report in writing, the mode in which the summons has been served.

66. (*a*).—On the expiration of the period specified in the summons if the defendants, or any of them, fail to attend the Court, proclamation shall be issued for their attendance within a further period to be fixed according to local circumstances in the different parts of the country.

(*b*).—If within the period fixed by the summons or proclamation an application shall be made to the Court to permit the answer to the plaint to be filed through a recognized agent as defined in clause (*c*) of rule four, or in writing, the Court may, on special grounds shown to its satisfaction, grant the application.

(*c*).—But if the party shall fail to attend, or shall not have excused attendance under the preceding clause, the Court, on finding after an examination of the plaintiff's case that he has a good *primâ facie* cause of action, may, in its discretion, issue warrant for the arrest of the defendant, who shall thereupon be taken into custody and brought before the Court; but no defendant shall be so arrested who shall give to the party charged with the warrant a declaration in writing that he is willing that the case should be tried *ex parte*.

67. On the appearance of the defendant in answer to the summons or in arrest, or on the appearance of the defendant's agent, if personal attendance has been excused, the parties shall be interrogated on oath or solemn declaration, and a written answer may also be received for the defendant at the discretion of the Court. The precise points at issue between them, which are material to the decision of the suit, shall then be ascertained and reduced to writing, and any witnesses then present, or documentary proof adduced, may be examined.

68. If after such interrogation and examination of evidence, a decree can be properly made without further enquiry, the Court shall make its decree accordingly; but if any issue result from the interrogatories upon which it is

necessary to hear further evidence, the Court shall call upon both parties to adjust the dispute amicably within a fixed period, or to consent to arbitration, and to furnish a list of such documentary and oral evidence as each is able to tender or desires to be called.

69. If the parties will not adjust privately or agree to arbitration, the Court shall procure the attendance of the witnesses, and require the production of the documentary evidence on a day fixed, and proceed to the trial and decision of the suit. Parties summoning witnesses should be required to state generally to what particulars each witness is believed to be able to depose.

70. If the case be referred to arbitrators, a term should be fixed for the award to be presented; and an officer of the Court should be directed to attend to call the parties and their witnesses before the arbitrators. The arbitrators shall not be permitted to leave the Court until they shall have delivered their award.

71. The awards of arbitrators should be presented and acknowledged in open Court in the presence of both parties to the suit. Such awards are not necessarily to be accepted by the Court. If the Court should have clear and strong reason to believe that justice has not been done by the award, it may direct a fresh arbitration or proceed to try the case itself.

72. The case having been completed by award of arbitrators accepted by the Court, or by the Court having determined on the merits, the Court shall declare its decision, which shall be written out in English, care being taken in the vernacular counterpart to specify the costs, the parties liable, and, in case of divided costs, the proportions chargeable to parties, as well as any amount of damages awarded on the ground of a suit being found to have been groundless and vexatious.

73. Execution of decree may be taken out, and should proceed, unless stayed within the period allowed for appeal, or, after institution of an appeal, by the tender of adequate security. In pending cases, if the Court is clearly convinced that the defendant is preparing to alienate his property, or to remove himself from the Court's jurisdiction, security can be demanded, and if not tendered, the Court can arrest the person, or attach the property of the defendant to an amount sufficient to satisfy the claim.

74. Execution of decree, if applied for within a twelve-month from the date of decision, may be enforced at once; otherwise previous notice must be served, or, if incapable of being served by the absence of the party liable, proclamation must be issued calling on the party liable to show cause within a fixed term against execution. Execution may be enforced by delivery of pos-

session of contested property, or by arrest of person and attachment and sale of property in satisfaction of the decree and costs of suit and execution.

75. No compromise on a decree, or payment in satisfaction, shall be admitted unless notified to the Court *viva voce* or by writing, which may also be sent through the local tahsíldár; and no execution of decree which has been relinquished by the decree-holder shall revive, unless on good reason shown to the satisfaction of the Court.

76. Upon every decree, whether in a summary or regular suit, for a balance of rent remaining due at the close of the year on account of which it was payable, application may be made as in execution of the decrees for the removal of the defaulting tenant on whom the balance has accrued.

77. The record of execution of decrees shall always be an annexure of the file of the original suit.

78. Quarterly abstracts of regular suits instituted, decided and depending in the revenue Courts shall be forwarded to the Board of Revenue.

79. Appeals from the revenue Courts in the summary department lie only to the Commissioner of Kumáon, whose orders on the merits, or on the point of jurisdiction, where cases involve issues which in his judgment are not fit to be tried summarily, are final.

80. Appeals from decisions of the revenue Courts in summary suits are admissible in the Commissioner's office, if presented within thirty days, reckoning from the date of the decision appealed.

81. No appeal lies to the Board of Revenue from the appellate decisions of the Commissioner in summary suits; but the Board are competent to indicate and prohibit the recurrence of irregularity or erroneous practice which may come under their observation.

82. Appeals from the decisions of the revenue Courts in regular suits lie to the Commissioner of Kumáon, if presented within sixty days of the certified completion of copy of the decision, where stamp-paper for copy is deposited, or otherwise of the date of the decision.

83. Special appeals from the appellate decisions of the Commissioner in regular suits lie to the Board of Revenue, if presented or forwarded so as to reach the Board's office within ninety days of the Commissioner's decision. The Board reserves to itself the discretion of admitting or refusing to admit such appeals. The Board admits appeals only in cases in which the Commissioner's decision is manifestly unjust, or apparently inconsistent with usage and rules, or involves a question of practice or usage on which the Board should declare its judgment, or, if necessary, elicit the orders of the Government. The Board of Revenue may, whenever it sees sufficient cause for so doing,

withdraw any appeal pending in the Court of the Commissioner, whether in a regular or summary suit and dispose of such appeal itself.

84. The proceedings and final judgments in all suits and appeals shall clearly state whether they are held or passed under the summary or regular jurisdiction declared by these rules.

CHAPTER III.

GENERAL.

85. The Local Government may invest any person with powers of a Superintendent or of an Assistant Superintendent for the trial of any suit or appeal, whether civil or revenue, or generally for the trial of such suits or appeals, and may direct that any particular case or class of cases shall be transferred for trial to the Court of the person so invested.

Decisions passed by any person so invested shall be subject to the same rules as regards appeals as if they had been passed by the Superintendent or the Assistant Superintendent, as the case may be.

86. The Local Government may direct the transfer of any civil or revenue suit or appeal from any Court having jurisdiction under these rules to the High Court of Judicature or to any other Court in the North-Western Provinces; and the Court to which such suit or appeal is transferred shall proceed to determine the same, and the decree passed by it shall be open to the same appeal as are the decrees of the Court by which the same shall be passed. The decree passed in any suit so transferred shall be executed by the Superintendent of the Tarái as if it were a decree of his own Court, and under the laws in force relating to the execution of the decrees of the Court of the Superintendent.

ENACTMENTS DECLARED IN FORCE IN THE TARÁI DISTRICT.

The 22nd September 1876, *Gazette of India*, 23rd September, 1876, p. 505.

No. 1553.—In exercise of the power conferred by section 3 of the Scheduled Districts Act, 1874, the Lieutenant-Governor of the North-Western Provinces is pleased, with the sanction of the Governor General in Council, to declare that so much of each enactment mentioned in the schedule hereto annexed, as is in force in those parts of the North-Western Provinces which are not included in any Scheduled District, is in force likewise in the Tarái District.

2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the Tarái District, and not mentioned in the said schedule.

SCHEDULE.

Number and year of Regulation or Act.	Subject.
Bengal Regulation.	
Regulation XVII of 1806 ...	Redemption and foreclosure of mortgages.
Acts of the Governor General in Council.	
Act XVI of 1854	Police-powers of Tahsíldárs.
„ XXXI of 1860 and „ VI of 1866	Arms.
„ XLV of 1860 ... ... „ XXVII of 1870 ... ... „ XIX of 1872	Penal Code and Amendments.
„ XVI of 1861 . .	Stage Carriages.
„ XVI of 1863 and „ X of 1871	Excise.
„ VII of 1865	Forests.
„ X of 1865 and „ XIII of 1875	Succession and Probates and Letters of Administration.

SCHEDULE—*concluded.*

Number and year of Regulation or Act.	Subject.
Acts of the Governor General in Council—concluded.	
Act XIV of 1866	Post-office.
„ III of 1867	Gambling.
„ XXII of 1867	Saráis and Puráos.
„ II of 1869 .	Justices of the Peace.
„ IV of 1869	Divorce Act.
„ XV of 1869	Prisoners' Testimony.
„ XVIII of 1869	General Stamp Act.
„ VII of 1870 and „ XX of 1870	Court Fees Act and Amendment.
„ X of 1870	Lands appropriation.
„ I of 1871	Cattle-trespass.
„ VIII of 1871	Registration.
„ XVIII of 1871	Local rates.
„ XXVI of 1871	Land improvements.
„ I of 1872 and „ XVIII of 1872	Evidence.
„ III of 1872 and „ XV of 1872	Marriage.
„ IX of 1872	Contracts.
„ XI of 1872	Extradition.
„ X of 1873	Oaths.
„ XV of 1873	Municipalities.
„ XVI of 1873	Village and Road-police.
„ I of 1876	Telegraphs.

ENACTMENTS EXTENDED TO THE TARÁI DISTRICT.

The 22nd September 1876, *Gazette of India*, 23rd September, 1876, p 506.

No. 1554.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Lieutenant-Governor of the North-Western Provinces is pleased, with the sanction of the Governor General in Council, to extend so much of each enactment mentioned in the schedule hereto annexed as is in force in those parts of the North-Western Provinces which are not included in any Scheduled District, to the Tarái District.

SCHEDULE.

Number and year of Regulation or Act.	Subject.
Bengal Regulations.	
Regulation XXXVIII of 1793 ...	Loans by Civilians.
„ I of 1798 ..	Conditional sales of land.
„ X of 1804	Punishment of State offences by Court Martial.
„ XI of 1806	Passage of Troops.
„ XX of 1810 ...	Camp-followers.
„ V of 1817	Hidden treasure.
„ III of 1818 ..	State prisoners.
„ VI of 1819 ..	Ferries.
„ XI of 1822	Non-liability of Government for errors of Court.
„ VII of 1823 ...	Loans to Civilians.
„ VI of 1825... ...	Supplies for troops.
„ XI of 1825	Alluvion.
„ XX of 1825 ...	Jurisdiction of Courts Martial.
„ XVII of 1829 ...	Widow-burning.
„ XI of 1831... ...	Police-powers of Tahsíldárs.
Acts of the Governor General in Council.	
Act XXXII of 1839 ...	Interest.
„ XVIII of 1841	Exportation of military stores.
„ V of 1843	Slavery.
„ XX of 1847	Copy-right.
„ XII of 1850	Security from Public Accountants.
„ XVIII of 1850 ...	Protection of Judicial Officers.
„ XIX of 1850	Apprentices.
„ XXI of 1850	Abolition of religious disabilities.
„ XXXVII of 1850... ...	Enquiries into behaviour of Public Servants.
„ XXXIII of 1852	Enforcement of Judgments (of High Courts).
„ XIX of 1853	Recusant witnesses.
„ XVIII of 1854 and „ XXV of 1871	Railways.
„ XII of 1855	Executors and Administrators, &c.
„ XIII of 1855	Compensation for loss occasioned by death caused by actionable wrong.
„ XXVIII of 1855	Interest.
„ XXXIV of 1855	To amend Act XXXIII of 1852.

SCHEDULE—*concluded.*

Number and year of Regulation or Act.	Subject.
Acts of the Governor General in Council—concluded.	
Act XV of 1856	Re-marriage of Hindú widows.
„ XX of 1856 and „ XXII of 1871	Chaukídárs.
„ XI of 1857	State offences.
„ XIII of 1857 and „ XXVI of 1872	Opium.
„ III of 1858	State prisoners.
„ XXXV of 1858	Lunatics.
„ XXXVI of 1858	Lunatic Asylums.
„ XL of 1858	Minors.
„ IX of 1859	Claims to property seized as forfeited.
„ XIV of 1859, section 15 ...	Illegal dispossession.
„ XV of 1859	Patents.
„ XXVII of 1860	Collection of debts on succession.
„ XXXIV of 1860 ...	Indemnity.
„ IX of 1861	Minors.
„ XX of 1863	Religious endowments
„ XXIII of 1863	Claims to waste-lands.
„ III of 1864	Foreigners.
„ VI of 1864 ...	Whipping.
„ III of 1865	Carriers.
„ XV of 1865 and „ XXI of 1865	Pársís.
„ X of 1866	Companies.
„ XXI of 1866	Divorces of converts.
„ XXV of 1867 .	Printing presses, &c.
„ XXXI of 1867	Railway servants.
„ XXIV of 1868	Inoculation.
„ XIII of 1870	State railways.
„ V of 1871	Prisoners.
„ XXVII of 1871	Criminal Tribes.
„ X of 1872 and „ XI of 1874	Criminal Procedure Code.
„ VIII of 1873	Canals.
„ II of 1874	Administrator General.
„ III of 1874	Married women's property.
„ IV of 1874	Foreign recruiting.
„ VI of 1874	Appeals to the Queen in Council.
„ IX of 1874	European vagrants.
„ VIII of 1875	Inland Customs.
„ IX of 1875	Majority.

The 22nd September 1876, *Gazette of India*, 23rd September, 1876, p 507.

No. 1555.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Lieutenant-Governor of the North-Western Provinces is pleased, with the sanction of the Governor General in Council, to extend Act XIX of 1873 (The North-Western Provinces Land-revenue Act) to the settled tracts of the Tarái District.

ENACTMENTS DECLARED IN FORCE IN THE DISTRICTS OF KUMÁON AND GARHWÁL.

The 5th December 1876, *North-Western Provinces Gazette*, 9th December, 1876, p. 1548.

No. 566A.—In exercise of the power conferred by section 3 of the Scheduled Districts Act, 1874, the Officiating Lieutenant-Governor of the North-Western Provinces is pleased, with the sanction of His Excellency the Governor General in Council, to declare that so much of each enactment mentioned in the schedule hereto annexed as is in force in those parts of the North-Western Provinces, which are not included in any Scheduled District, is in force likewise in the Kumáon and Garhwál districts.

2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the Kumáon and Garhwál districts, and not mentioned in the said schedule.

(*N. B.—Where not otherwise stated, it is only the unrepealed portions of the enactments hereunder specified that are intended to be declared in force.*)

SCHEDULE.

Number and year of Regulation or Act.	Subject.
Reg. XXXVIII of 1793	Loans by Civil Servants
„ XVII of 1806 ..	Redemption and foreclosure of mortgages.
„ XI of 1822	Non-liability of Government for errors of Courts.
„ XVII of 1829 ...	Widow-burning.
„ XI of 1831	Police-powers of Tahsíldárs.
„ IX of 1833	Settlement.
Act XXXII of 1839	Interest.
„ V of 1843 ..	Slavery.

SCHEDULE—*concluded.*

Number and year of Regulation or Act.	Subject
Act XII of 1850	Security from Public Accountants.
„ XVIII of 1850 ...	Protection of Judicial Officers.
„ XXXIII of 1852 ...	Enforcement of Judgments of High Courts and Military Courts of Requests.
„ II of 1853 ..	Liabilities of Land-holders.
„ XIX of 1853, section 26 ...	Recusant Witnesses.
„ XVI of 1854 ..	Police-powers of Tahsíldárs.
„ XV of 1856 ...	Re-marriage of Hindú widows.
„ XI of 1857	State offences.
„ XIII of 1857	Poppy cultivation and opium.
„ XL of 1858	Minors.
„ III of 1869 .	Cantonment Joint Magistrates.
„ VIII of 1859 (excepting chapters VIII, X and XI; and sections 119, 246, 247, 269 and 325, in so far as they relate to appeals).	Civil Procedure.
„ XXVII of 1860 ...	Collection of debts on successions.
„ IX of 1861	Minors.
„ XXIII of 1861	Civil Procedure Amendment.
„ IX of 1863	Ditto ditto ditto.
„ XXIII of 1863	Claims to waste-lands.
„ VI of 1864	Whipping.
„ III of 1865	Common Carriers.
„ XI of 1865	Mufassal Small Cause Courts.
„ X of 1867	
„ XXV of 1867	Printing Presses.
„ XV of 1869	Evidence of Prisoners.

ENACTMENTS EXTENDED TO THE DISTRICTS OF KUMÁON AND GARHWÁL.

The 5th December 1876, *North-Western Provinces Gazette*, 9th December, 1876, p. 1549.

No. 567A.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Officiating Lieutenant-Governor of the North-Western Provinces is pleased, with the sanction of His Excellency the Governor General in Council, to extend so much of each enactment mentioned in the schedule hereto annexed as is in force in those parts of the North-Western Provinces, which are not included in any Scheduled Districts, to the Kumáon and Garhwál districts.

(N. B.—Where not otherwise stated, it is only the unrepealed portions of the enactments hereunder specified that are intended to be extended.)

SCHEDULE.

Number and year of Regulation or Act.	Subject.
Reg. I of 1798	Conditional sales of land.
„ X of 1804	Punishment of State offences by Court Martial.
„ XI of 1806	Passage of Troops.
„ XIX of 1810	Maintenance and repair of bridges, &c, and Nazúl.
„ XX of 1810	Camp-followers, bázárs and cantonments.
„ V of 1817	Hidden treasure.
„ III of 1818	State prisoners.
„ VI of 1819	Ferries.
„ VII of 1823	Prohibition of loans to Covenanted Civil Servants.
„ VI of 1825	Supplies for troops.
„ XX of 1825	Jurisdiction of Courts Martial.
Act IV of 1837	Power to acquire land.
„ XXV of 1838	Wills made before 1st January 1866.
„ XXIX of 1839	Dower.
„ VI of 1840	Bills of exchange.
„ XI of 1841	Military Courts of Requests.
„ XVIII of 1841	Exportation of military stores.
„ XIX of 1841	Curators in cases of successions.
„ IX of 1842	Lease and release.
„ XII of 1842	Military bázárs.
„ XX of 1847	Copy-right.
„ XIX of 1850	Apprentices.
„ XXI of 1850	Abolition of religious disabilities.
„ XXXIV of 1850 ...	State prisoners.
„ XXXVII of 1850 ...	Public servants.
„ XVIII of 1854	Railways.
„ XI of 1855	Mesne profits and improvements.
„ XII of 1855	Executors and Administrators.
„ XIII of 1855	Compensation for deaths.
„ XXVIII of 1855 ...	Interest.
„ XI of 1856	Desertion by European soldiers.
„ XX of 1856	Chaukídárí.
„ III of 1858	State prisoners.
„ XXXV of 1858 ...	Estates of lunatics.
„ XXXVI of 1858 ...	Lunatic asylums.
„ IX of 1859	Claims to property seized as forfeited.

SCHEDULE—*concluded.*

Number and year of Regulation or Act.	Subject.
Act XIV of 1859, section 15 ...	Illegal dispossession.
„ XV of 1859	Patents.
„ XXI of 1860	Registration of societies.
„ III of 1862	Government seal.
„ XVI of 1863	Excise-duty on spirits used in arts and manufactures.
„ XX of 1863	Religious endowments.
„ XXXI of 1863	Gazette of India.
„ III of 1864	Foreigners.
„ XV of 1865	Párśis.
„ XXI of 1865	Ditto.
„ V of 1866	Bills of exchange and commercial law.
„ X of 1866	Indian Companies.
„ XXI of 1866	Dissolution of marriages of Native converts.
„ XXVIII of 1866 ...	Powers of trustees and mortgagees.
„ XXIII of 1870	Coinage.
„ XXII of 1871	Chaukídárí.
„ XXV of 1871	Railways.
„ XIX of 1873, chapters III V and VI; and sections 94 and 140 to 145 inclusive, of chapter IV.	Revenue.

RULES FOR THE ADMINISTRATION OF JUSTICE IN KUMÁON AND GARHWÁL.

The 5th December 1876, *North-Western Provinces Gazette*, 9th December, 1876, p. 1549.

No. 568A.—In exercise of the powers conferred by section 6 of the Scheduled Districts Act, 1874, the Officiating Lieutenant-Governor has been pleased to prescribe the following rules for the administration of justice in the Kumáon and Garhwál districts, in supersession of all previous rules on the subject :—

RULES FOR THE KUMÁON AND GARHWÁL DISTRICTS, ISSUED UNDER SECTION 6, ACT XIV OF 1874.

CHAPTER I.—CRIMINAL JUSTICE.

1. The High Court (North-Western Provinces) shall be the High Court

of the Kumáon and Garhwál districts for the purposes of the Criminal Procedure Code.

2. The Commissioner of Kumáon shall have and exercise all the powers of a Court of Session in the Kumáon and Garhwál districts.

3. The Senior Assistant Commissioner shall be deemed the Magistrate of the District, and shall have and exercise, in subordination to the Commissioner of Kumáon, the powers with which the chief executive officer of the district may be invested by the Local Government, under section 36 of the Criminal Procedure Code.

4. The Assistant Commissioners, Junior Assistant Commissioners, Extra Assistant Commissioners, Sadr Amíns and other subordinate officers, shall exercise such magisterial powers as they may from time to time be invested with by the Local Government.

5. For the purposes of Acts declared in force in, or extended to, the Kumáon and Garhwál districts, other than the Code of Criminal Procedure, except in the case of Acts for which the High Court, North-Western Provinces, is declared to be the High Court for the Kumáon and Garhwál districts, the Senior Assistant Commissioner shall have and exercise the powers of a District Judge, and the Commissioner of Kumáon the powers of a High Court.

CHAPTER II.—Civil Justice.

1. For the purposes of the following Acts (and of such other Acts as the Local Government may hereafter declare), the High Court, North-Western Provinces, shall be the High Court for the Kumáon and Garhwál districts, namely :—

Indian Succession Act (X of 1865) :

Indian Divorce Act (IV of 1869).

For the purposes of all other Acts, the Commissioner of Kumáon shall be the High Court, and the Senior Assistant Commissioner the District Court.

2. (*a.*)—The Senior Assistant Commissioner and Assistant Commissioners shall have authority to try original suits without limit of amount : Original jurisdiction of Courts.

(*b.*)—The Junior Assistant Commissioners shall have authority to try original suits not exceeding Rs. 1,000 in value :

(*c.*)—Extra Assistant Commissioners and Sadr Amíns shall have authority to try original suits not exceeding Rs. 500 in value :

(*d.*)— Tahsíldárs, when authorized by Government to exercise civil judicial functions, shall have authority to try original suits not exceeding Rs. 300 in value :

(*e*.)—Government may invest any officers of the classes specified in clauses (*b*), (*c*), (*d*), with higher powers.

Appeals. 3. Every order and decision passed by the Courts of primary instance shall be open to an appeal as follows :—

Clause 1.—From the decisions of a Senior Assistant Commissioner, or Junior Assistant Commissioner exercising the powers of a Senior Assistant Commissioner in original suits, a regular appeal shall lie to the Commissioner, whose decision shall be final : provided that, whenever the decisions of the Court of primary instance and of appeal in such cases shall differ, it shall be in the option of the Government, on petition being presented or otherwise, to refer the proceedings to the High Court of Judicature for their report and opinion, and thereafter to pass such orders as may appear proper.

Clause 2.—From the decision of a Senior Assistant Commissioner in regular appeals, a special appeal may be admitted by the Commissioner for good and sufficient reasons, to be set forth at length in the order of admission.

Clause 3.—The foregoing clause shall be applicable to the decisions passed on regular appeal by Assistant Commissioners, who, upon the special recommendation of the Commissioner, may be empowered by Government to hear appeals from the decisions of Tahsíldárs in original suits.

Clause 4.—From the decisions of a Junior Assistant Commissioner (not exercising the powers of a Senior Assistant Commissioner), of Extra Assistant Commissioners, Sadr Ámíns and Tahsíldárs in original suits, a regular appeal shall lie to the Senior Assistant Commissioner : provided that, whenever an Assistant Commissioner shall have been vested with authority to hear appeals, as in the preceding clause, it shall be in the discretion of the Senior Assistant Commissioner to make over to him, for hearing and decision, such number of appeals from the decisions of Tahsíldárs as he may think fit.

4. The appeal from the decisions in original suits of all (District) Courts subordinate to the Senior Assistant Commissioner, as an appellate authority, must be preferred within thirty days from the date of the order or decision appealed against. A regular appeal from the decision of a Senior Assistant Commissioner, Assistant Commissioner, or a Junior Assistant Commissioner exercising the powers of a Senior Assistant Commissioner in original suits, and a special appeal from the decision of the same officers in regular appeal, must be preferred within sixty days from the date of the order or decision appealed against. If the period allowed for appeal should in either case elapse whilst the appellate Court is closed, an appeal, either regular or special, as may be, may be admitted on the first day on which such Court re-opens.

The thirty and sixty days respectively shall be reckoned from, and exclusive of, the day on which judgment was pronounced, and also exclusive of the period which may intervene between the presentation of stamped paper for a copy, and the completion of the copy.

5. An appeal may be admitted after the expiration of the term allowed, provided that good and sufficient cause be shown for the indulgence.

6. The petition of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court, in deciding the appeal, shall not be confined to the grounds set forth by the appellant.

7. An appeal shall be preferred by the appellant in person, or by his recognized agent, and the appellate Court shall give immediate notice to the respondent, and may, if it think necessary, summon the respondent.

The Court of appeal may take additional evidence in a case of appeal, or may remand it for further investigation.

The appellate Court may suspend the execution of a decree pending an appeal.

8. No order or decision shall be reversed, altered or remanded on account of any error, defect or irregularity, not productive of injury to either party.

9. It shall be in the power of the Commissioner of the Division, and of the Senior Assistant Commissioner of each district, exercising appellate jurisdiction under these rules, at any time, within ninety days from the date of the passing or the execution of any judgment or order by any Court subordinate to the said appellate Courts of the Commissioner and Senior Assistant Commissioner, to call for such judgment or proceeding, without any regular appeal or application for review having been preferred against the same; and may, if the said Commissioner or Senior Assistant Commissioner shall see sufficient grounds, revise and alter, or reverse or confirm, the same. But in such case, before revising, altering or reversing any judgment or order, the said Commissioner or Senior Assistant Commissioner shall cause the same notice to be given to the party in whose favour the said order or judgment was pronounced; and the same opportunity to such party to be heard in support thereof, and the same proceedings to be taken, as if a petition of appeal had been filed by the party aggrieved thereby.

10. In all matters other than such as relate to appeals, as above, the provisions of the Civil Procedure Code will guide the Courts.

CHAPTER III.—Revenue Courts.

(*a.*)—Executive.

1. The provisions of chapters III, V, VI, and of sections 94 and 140—145, of chapter IV, Act XIX of 1873, have been extended to the Kumáon and Garhwál districts.

For the purposes therein mentioned, the Senior Assistant Commissioner shall be considered to be the Collector of the District, and the subordinate officers shall exercise the following powers: Assistant Commissioners and Junior Assistant Commissioners those of an Assistant Collector of the first class; and Extra Assistant Commissioners those of an Assistant Collector of the second class, unless otherwise invested by the Local Government.

2. Perfect partitions are not customary in the Kumáon and Garhwál districts, but the following procedure is to be observed in cases of imperfect partition:—

On application for imperfect partition, if the application be not open to objection, the presiding officer, in whose Court the suit has been filed, shall ssue a notice to the village within which the land referred to is. All parties interested in the partition shall be summoned to Court, and it must be clearly determined what land is to be divided, how many persons are to have shares, and in what proportion. After this has been settled, no further action shall be taken for two months, and a notice giving names of sharers and their shares, as has been determined in Court, should be made known by proclamation in the village within which the land is situated, so that any who have objections may make them before the partition takes place. If no objection is then made, partition can be carried out according to local custom.

(*b.*)—Judicial.

I.—Summary Suits.

Rule I—Suits of málguzárs, whether proprietors or farmers from Government, of under-farmers, of holders of rent-free or quit-rent tenures, or of duly authorized agents, against cultivators or other tenants, and of tenants of land against their sub-occupants, for arrears of money, or in kind, or for the value of the landlord's share in the crop, calculated at the market-rate: provided the claim rests on payments or usage of past years, or on specific written engagements, or on the order of a competent Court.

Rule II.—Suits of lambardárs against their under-sharers, for quota of revenue, agreeably to written compact, or family or established usage.

Rule III.—Suits of málguzárs, proprietors or farmers from Government, or of holders of rent-free or quit-rent tenures, against agents entrusted with

the management of their estates, or the collection of rents, for production of accounts, and recovery of moneys alleged to be due.

Rule IV.—Suits of farmers of duties on ábkárí, tárí or intoxicating drugs, against licensed manufacturers and vendors of those articles for recovery of arrears due on sub-contracts.

Rule V.—Suits of cultivators, tenants or under-tenants, against any of the parties described in Rule I, and of under-sharers against their lambardárs, for undue exaction of rent.

Rule VI.—Suits of cultivators, tenants or under-tenants, against any of the parties described in Rule I, and of under-sharers, against their lambardárs on account of actual or attempted dispossession, without authority of law, from their holdings.

Rule VII.—The suit in each case, under Rules I, II, III and IV, must be filed within a twelve-month after the rent has become due, or the cause of action has arisen. The suit, in cases under Rules V and VI, must be brought within sixty days from the date of alleged exaction or actual or attempted dispossession; excepting as regards a suit brought by residents of the Bhote maháls, in which the limit for the admission of a claim summarily shall be within a month after the 1st December in each year.

Proviso.—Provided that if it shall appear to the Court, before which any of the aforesaid suits is instituted, or to the Commissioner in appeal, that it raises issues which are not fit to be tried summarily, an order may pass for the trial of the case under the rules for regular suits, the plaint being filed *de novo* on the requisite stamp. No order of the Court, under this proviso, shall be open to appeal.

II.—Regular Suits.

Rule I.—Suits regarding the málguzárí right in land, or the right in registered muáfi land, or in land held on a quit-rent, claims to share in the rents and profits of land, whether such be málguzárí or registered muáfi land, or land held on a quit-rent, or to share in the manorial privileges which the Government does not reserve to itself. Such claims may include wells, tanks and water-courses, *bonâ fide* employed in, or applicable to, agricultural purposes.

Rule II.—Suits brought on any of the grounds mentioned under Rules I to VI for summary suits, where from lapse of time, or on other grounds, the suit cannot be tried in the summary department.

Rule III.—Suits brought by any of the parties described in Rule I of summary suits, for rent of land held without authority by tenants in excess of pattás, or preceding engagements, and contrary thereto.

Rule IV.—Suits brought by the same parties to oust tenants not in default

at the end of any year, or at the expiration of any lease, on the ground that such tenants have no permanent right of occupancy.

Rule V.—Suits brought by the same parties to enhance the rent of tenants at the time, and on the grounds stated in the preceding rule.

III.—Jurisdiction of the Civil Courts.

The Civil Courts have no jurisdiction in cases under the preceding rules for summary and regular suits, which are to be tried in the revenue Courts; but they are competent to try and dispose of regular suits for orchards, gardens and wells thereto belonging: or for houses or other buildings, the private property of individuals, with the land on which such houses or buildings are erected, and the enclosures round them.

IV.—Rules of Practice in Regular Suits.

Rule I.—The plaint must state precisely the subject-matter of complaint, the names of all the persons complained against, the correct valuation and the time when the cause of action arose.

Rule II.—A single action must not involve different issues, unless on leave specially given by the Court, and must relate to subject-matters within the authority of the revenue Court in its fiscal capacity.

Rule III.—If the suit be for málguzárí right, possession and manorial privileges, or for share in the profits of málguzárí right, possession and manorial privilege incidental thereto, the plaint must specify the Government jama of the estate, or the specific proportion of jama on the share claimed.

Rule IV.—If the suit be for possession or share in the profits of registered muáf land, or land held on a quit-rent, the gross rental of the whole, or of the specific share claimed in the muáf or tenure held on a quit-rent, must be stated in the plaint.

Rule V.—If the suit be for tenant-occupancy, or for the right to levy rent of land in tenant-occupancy, the extent of the land, and the amount of rent payable, or fairly demandable, must be stated in the plaint.

Rule VI.—If the suit be for possession of wells, tanks and water-courses employed for agricultural purposes, the amount of damage sustained by deprivation or obstruction, must be stated in the plaint.

Rule VII.—If the suit be instituted for maintaining possession of a tenant against ouster, the extent of land and amount of rent must be stated in the plaint.

Rule VIII.—The plaint must be engrossed on stamp-paper, according to the rule of valuation which may from time to time be declared by Government to have effect in the several districts of the division.

Rule IX.—If the plaint be instituted on an inadequate stamp, or be wanting in precision and completeness, the Court may allow it to be amended on additional stamp-paper being furnished according to the regulated value, as it may think fit. But if the plaint be preferred in a false or fictitious name, or if the cause of action be beyond twelve years, the plaintiff shall be non-suited.

Rule X.—Regular suit shall be tried and decided in the revenue Courts, and shall not be delegated to subordinate officers, but with consent of parties, or at the discretion of the Court; in either case, the grounds being set forth in an interlocutory proceeding, a commission may be issued to the Tahsíldárs, or other local officers, for enquiry, description and report, with or without the taking of oral evidence, on any point on which an investigation on the spot may be thought requisite. But this rule shall not be regarded as prohibitory of the practice of making over to officers, vested with powers of an Assistant, regular suits for investigation, completion of evidence, and decision or proposed award as may be pre-arranged, and subject to the orders of the superior district officers, and of the appellate authorities.

Rule XI.—The plaint having been instituted, shall be numbered and registered, after which, on the deposit of the requisite talabána within a reasonable specified term, a summons shall be served on the defendants. The summons shall contain a short account of the claim, and shall be issued under the seal and signature of the Court, through an officer who shall require the defendants to attend within a time to be specified by the Court.

Rule XII.—The officer in charge of the summons shall endeavour to obtain the signature of the defendants; or, in the event of their absence, shall proceed to their residence, and acquaint their families or neighbours with the object of his mission, and shall obtain the signature of two credible persons to the summons in proof of service. On his return, the Názir shall ascertain from him, and report in writing, the mode in which the summons has been served.

Rule XIII.—1. On the expiration of the period specified in the summons, if the defendants or any of them, fail to attend the Court, proclamation shall be issued for their attendance within a further period to be fixed according to local circumstances, in the different parts of the country.

2. If within the period fixed by the summons or proclamation, an application shall be made to the Court to permit the answer to the plaint to be filed through an agent, or in writing, the Court may, on special grounds shown to its satisfaction, grant the application.

3. But if the party shall fail to attend, or shall not have been excused attendance under the preceding clause, the Court, on finding after an examination of the plaintiff's case, that he has a good *primâ facie* cause of action,

may, in its discretion, issue a warrant for the arrest of the defendant, who shall thereupon be taken into custody and brought before the Court; but no defendant shall be so arrested, who shall give to the party charged with the warrant, a declaration in writing that he is willing that the case should be tried *ex parte*.

Rule XIV.—On the appearance of the defendant, in answer to the summons or in arrest, or on the appearance of the defendant's agent, if personal attendance has been excused, the parties shall be interrogated on oath, or solemn declaration, and a written answer may also be received for the defendant at the discretion of the Court. The precise points at issue between them, which are material to the decision of the suit, shall then be ascertained and reduced to writing. Either party may cross-examine the other, and any witnesses then present, or documentary proof adduced, may be examined. If an answer be allowed to be furnished in writing, it should be on stamp-paper of eight annas value for each sheet of manuscript.

Rule XV.—If after such interrogation and examination of evidence, a decree can be properly made without further enquiry, the Court shall make its decree accordingly; but if any issue result from the interrogatories upon which it is necessary to hear further evidence, the Court shall call upon both parties to adjust the dispute amicably within a fixed period, or to consent to arbitration, and to furnish a list of such documentary and oral evidence as each is able to tender, or desires to be called.

Rule XVI.—If the parties will not adjust privately, or agree to arbitration, the Court shall procure the attendance of the witnesses, and require the production of the documentary evidence on a day fixed, and proceed to the trial and decision of the suit. Parties summoning witnesses should be required to state generally to what particulars each witness is believed to be able to depose.

Rule XVII.—Exhibits may be received on plain paper, except instruments or copies of official documents, which require to be engrossed on stamp-paper to render them valid. Mukhtárnámas must in all cases be of the stamp prescribed in Rule VIII.

Rule XVIII.—Rázínámas filed within the term allowed for amicable adjustment by Rule XV will enable the plaintiff to receive the full value of the stamp of the plaint; but if filed in any after-stage of the cause, only half the stamp-value can be returned.

Rule XIX.—If the case be referred to arbitrators, a term should be fixed for the award to be presented; and an officer of the Court should be directed to attend to call the parties and their witnesses before the arbitrators.

Rule XX.—The awards of arbitrators should be presented and acknow-

ledged in open Court. Such awards are not necessarily to be accepted by the Court. If the Court should have clear and strong reasons to believe that justice has not been done by the award, it may direct a fresh arbitration, or proceed to try the case itself.

Rule XXI.—The case having been completed by award of arbitrators, accepted by the Court, or by the Court having determined on the merits, the Court shall declare its decision, which shall be written out in English, care being taken in the vernacular counterpart to specify the costs, the parties liable, and, in case of divided costs, the proportions chargeable to parties, as well as any amount of damages awarded on the ground of a suit being found to have been groundless and vexatious.

Rule XXII.—Execution of decree may be taken out, and should proceed, unless stayed within the period allowed for appeal, or after institution of an appeal, by the tender of adequate security. In pending cases, if the Court is clearly convinced that the defendant is preparing to alienate his property, or to remove himself from the Court's jurisdiction, security can be demanded; and if not tendered, the Court can arrest the person, or attach the property of the defendant, to an amount sufficient to satisfy the claim.

Rule XXIII.—Execution of decree, if applied for within a twelve-month from the date of decision, may be enforced at once; otherwise, previous notice must be served, or, if incapable of being served by the absence of the party liable, proclamation must be issued, calling on the party liable to show cause, within a fixed term, against execution. Execution may be enforced by delivery of possession of contested property, or by arrest of person, and attachment and sale of property, in satisfaction of the decree and costs of suit and execution.

Rule XXIV.—No compromise on a decree, or payment in satisfaction, shall be admitted, unless notified to the Court, *vivâ voce*, or by a writing, which may also be sent through the local Tahsíldár; and no execution of decree, which has been relinquished by the decree-holder, shall revive, unless on good reason shown to the satisfaction of the Court.

Rule XXV.—Upon every decree, whether in a summary or a regular suit, for a balance of rent remaining due at the close of the year on account of which it was payable, application may be made as in execution of the decree for the removal of the defaulting tenant on whom the balance has accrued.

Rule XXVI.—The record of execution of decrees shall always be an annexure of the file of the original suit.

Rule XXVII.—Quarterly abstracts of regular suits instituted, decided and pending in the revenue Courts, shall be forwarded to the Board of Revenue.

V.—Appeals in Summary Suits.

Rule I.—Appeals from the revenue Courts in the Districts of Kumáon and Garhwál in the summary department lie only to the Commissioner, whose orders on the merits, or on the point of jurisdiction, where cases involve issues which in his judgment are not fit to be tried summarily, are final.

Rule II.—Appeals from decisions of the revenue Courts in summary suits are admissible in the Commisssioner's office, if presented within thirty days, reckoning from the date of the decision appealed; copy of which parties are authorized to take on plain paper.

Rule III.—No appeal lies to the Board of Revenue from the appellate decisions of the Commissioner in summary suits; but the Board are competent to indicate and prohibit the recurrence of irregularity or erroneous practice, which may come under their observation.

VI.—Appeals in Regular Suits.

Rule I.—Appeals from the decisions of the revenue Courts lie to the Commissioner, if presented within sixty days of the certified completion of copy of the decision, where stamp-paper for copy is deposited, or otherwise of the date of the decision.

Rule II.—Special appeals from the appellate decision of the Commissioner in regular suits lie to the Board of Revenue, if presented or forwarded so as to reach the Board's office within ninety days of the Commissioner's decision. The Board reserve to itself the discretion of admitting, or refusing to admit, such appeals. The Board admit appeals only in cases in which the Commissioner's decision is manifestly unjust, or apparently inconsistent with usage and rules, or involves a question of practice or usage, on which the Board should declare its judgment, or, if necessary, elicit the orders of Government.

Rule III.—The proceedings and final judgments in all suits and appeals shall clearly state whether they are held or passed under the summary or regular jurisdiction declared by these rules.